PRINCIPLES OF DEEN

BY

Dr. Mufti Abdul Wahid

(JAMIA MADINA LAHORE, PAKISTAN)

TRANSLATION & EDITED BY

Mufti Afzal Hoosen Elias

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COMMENT:

All Praise is due to Allaah, our Creator, Nourisher and Provider. Peace and Blessings be upon all the Ambiyaa (A.S.) and upon the last and final Rasul (Messenger) - Muhammad (S.A.W.). Peace and blessings upon his companions who accepted and propagated DEEN (religion) to the entire world.

The book "Principles of Deen" has 12 chapters, explaining:

1.) Wahy ;
2.) Principles of Tafseer ;
3.) Principles of Hadith ;
4.) Consensus of the Ummat (Ijma) ;
5.) Qiyaas ;
6.) What is Fiqh ;
7.) Principles of Fiqh ;
8.) Essentials of Fiqh ;
9.) Principles of Ijtihaad ;
10.) Principles of Taqleed ;
11.) Principles of Sunant and Bidaat and
12.) Principles of Imaan and Kufr.

Information in this book, because of its close link to classically written text will be new to many readers.
Thus I suggest one reads, studies and seeks further explanation from Ulema. In fact, it is an ideal text book for advanced adult classes in any part of the world.

The contents, if understood, will definitely create a better rapport, link and bridge between the lay Muslims and the Ulema –e – Haqq. Dr. Mufti Abdul Wahid, Mufti of Jamia Madina Lahore, Pakistaan, has written many other works which are compiled in syllabus form. These are taught in numerous Masaajids in Pakistaan.

Allaah willing we will endeavour to translate that entire syllabus for the benefit of the English world. "Principles of Deen" is the first phase. Insha-

Allaah, “Islaami Aqaaid (belief) will be next. Allaah reward Moulana Rafiq Abdul Majeed, Director of Zam Zam Publishers for making this work available to the English market.

Any suggestion or comments on the translation are most welcomed.

A. H. Elias (Mufti)

THE PRINCIPLES (*USOOL*) OF DEEN

CHAPTER ONE – DISCUSSION ON *WAHI*

Dictionary meaning

The literal and dictionary meaning of *wahi* would be - *secret notification.* However Allamah Ibn Qayyim (rahmatullahi alaihi) has included an extra condition to this definition, he says it means – *a swift secret notification.* Imaam Raaghib (rahmatullahi alaihi) writes in *Mufradaat, "Wahi is a swift notification which is executed secretly."* From this we ascertain that according to the dictionary definition, *wahi* comprises three different things:

1. Notification – that is, where a lengthy thing is summarized and abridged. A notification is sometimes given by the tongue, sometimes with a finger or gesture of the hand, and sometimes by a hint.

It is as though *wahi* is an indication; such an abridged indication which points out to, and indicates towards something which is very detailed. The mind and intellect of the Prophets are so lofty and advanced that they immediately understand and comprehend the deep meanings of what is being revealed to them.

2. The second thing is speed – that is, revelation is executed in a speedy manner.

3. The third part is secrecy – that is, this revelation is executed in such secrecy that no one else is aware of what is being revealed at the time of revelation.

The usage of *wahi* with regard to its lexicographic definition

The term *wahi* is very vast and general insofar as its dictionary definition is concerned. It is mentioned in the Qur`aan Majeed, regarding the rights of earth,

"On that Day (Qiyaamah), it (the earth) will divulge its information, because indeed your Rabb has inspired (instructed) it."

Allaah Ta`ala says regarding the bee, *"Your Rabb has inspired the bee to construct homes in the mountains."*

Allaah Ta`ala mentions regarding the Disciples of Hadhrat Isaa (alaihi salaam), *"And when I inspired the Helpers (of Hadhrat Isaa – alaihi salaam), that they believe in Me and My Rasool."* [Surah Maa`idah, 111]

Allaah Ta`ala states regarding the mother of Hadhrat Moosa (alaihi salaam), *"And We inspired the mother of Moosa, that she breastfeed him."* [Surah Qasas, 7]

This type of *wahi* is not confined and special to Allaah Ta`ala alone, in fact, it can emanate from humans, even kuffaar and shaitaan. In this regard, Allaah Ta`ala says regarding Hadhrat Zakariyyah (alaihi salaam), *"Thus he indicated to them to engage in Tasbeeh morning and evening."* [Surah Maryam, 11]

Regarding the kuffaar and Mushrikeen, Allaah Ta`ala says, *"Some of them inspire the others with evil words of rebellion."* [Surah An`aam, 112]

Allaah Ta`ala says regarding shaitaan, *"Indeed the shayaateen inspire their companions/friends."* [Surah An`aam, 112]

The Shar`i meaning of *wahi*

Haafiz Badruddeen Aini (rahmatullahi alaihi) states the Shar`i meaning of *wahi* to be, *"The Divinely revealed Words of Allaah upon a Nabi from the Ambiyaa (alaihimus salaam)."*

The Qur`aan Majeed is also regarded as *wahi*, according to the Shar`i definition

1. *"We narrate to you the best of parables in this Qur`aan which We have revealed unto you."* [Surah Yusuf, 3]

2. *"Recite that which has been revealed unto you from the Kitaab of your Rabb."* [Surah Kahaf, 27]

The different types and ways of divine revelation upon a prophet

The different types of *wahi* are established from the under-mentioned Aayat. This Aayat was revealed in reply to a question posed by the kuffaar and Mushrikeen. They used to ask, *"Why does Allaah not speak to us?"* This Aayat was revealed in reply to them, *"It is not possible for any man that Allaah speaks to him, except by (means of) wahi, or from behind a screen or that He sends a messenger, who reveals with His permission to whomever He desires."* [Surah Shuraa, 5]

This Aayat illustrates three different types of revelation.

The first type: Inspiration

It is achieved in this way that the soul of the recipient of the *wahi* is drawn from his body towards a sacred sphere. That is, it is overcome. Then the Speech of Allaah Ta`ala is imbibed into this soul. There is no intermediary of an angel etc. used in this. Not even any sensory perception of the recipient of the *wahi*, like his hearing. In fact, this Speech of Allaah Ta`ala is imbibed into the soul of the recipient at once and it is immediately understood and perceived by him.

The second type: From behind a screen

Here also there is no intermediary of any angel. However, the auditory sense of the recipient of the *wahi* comes into play. He hears the Speech of Allaah Ta`ala in an unconventional way, i.e. the sound does not come from any particular direction, place or time. *"From behind a screen"* means that the recipient of the *wahi* only hears the Words in his ears, and he has this certainty that the Speaker is Allaah Ta`ala, but he has no idea where and how it is reaching him. It has been reported that when Hadhrat Moosa (alaihi salaam) heard the Speech of Allah Ta`ala at the Mount Toor, then the Sound came to him from all directions.

The third type: sending a messenger

In this type, Allaah Ta`ala conveys His Speech via the agency of Hadhrat Jibraeel (alaihi salaam).

At times, Hadhrat Jibraeel (alaihi salaam) used to come to Nabi (sallallahu alaihi wasallam) in the form of a man and convey the *wahi* and at times he would come in his original form and imbibe the Speech of Allaah Ta`ala into the soul of Nabi (sallallahu alaihi wasallam).

The Shar`i connotation of *wahi* is specific to the Ambiyaa (alaihimus salaam)

Allaah Ta`ala addresses Nabi (sallallahu alaihi wasallam), saying, *"Indeed We send wahi to you just as We sent wahi to Nooh, and the Prophets after him and We sent wahi to Ebrahim, Ismail, Is`haaq, Ya`qub, the prophets of the Bani Israeel, Isaa, Ayyub, Yunus, Haroon, and Sulaiman, and We gave Dawood the Zaboor."* [Surah Nisaa, 163]

This Aayat of the Qur`aan Majeed is a concise and comprehensive one, which establishes that *wahi* is specific for the Ambiyaa (alaihimus salaam). From the era of Hadhrat Nooh (alaihi salaam), who was the first prophet sent to a kaafir nation, upto Nabi (sallallahu alaihi wasallam), all the Ambiyaa (alaihimus salaam) received *wahi*.

There are two types of *wahi*-e-Nubuwwat

Wahi-e-Nubuwwat is of two types:

1. *Wahi-e-Kitaabi* – that is, the *wahi* which is included in the verses of the Divine Scripture. This is also known as *wahi-e-matloo* (i.e. the one which is recited).
2. *Wahi Ghair Kitaabi* – that is, all that revelation excluding what is contained in the divine Scripture. This is also known as *wahi-ghair matloo.*

Proof of the Qur`aan Majeed being *wahi*

1. *““We narrate to you the best of parables in this Qur`aan which We have revealed unto you.”* [Surah Yusuf, 3]
2. *“Say! It is brought down by a Pure Soul (angel) from your Rabb, with truth.”* [Surah Nahl, 102]
3. *“And We have revealed upon you the Qur`aan, so that you may explain to the people that which has been revealed to them.”*[Surah Nahl, 144]
4. *“And do not be hasty in receiving the Qur`aan, before the wahi is completed on you.”*[Surah Taha, 114]

The proof for the validity of *wahi-ghair-Kitaabi*

1. Once Nabi (sallallahu alaihi wasallam) confided a certain personal matter to one of his wives and asked her not to reveal it to anyone else. Due to human limitations, this wife narrated the secret to another of Nabi (sallallahu alaihi wasallam)’s wives. Allaah Ta`ala informed Nabi (sallallahu alaihi wasallam) of this through the means of *wahi-ghair-Kitaabi*. After the entire matter was opened, Allah Ta`ala states in the Qur`aan Majeed, *“When the Nabi had confided something to one of his wives, so when she told it (to another), and Allaah made it known to him, he informed part thereof and left a part. Then when he told her thereof, she said, ‘Who told you this?’ He said, ‘The All-Knower, the All-Aware has told me.’”*

2. When the son of Hadhrat Nooh (alaihi salaam) was close to drowning, then he (Hadhrat Nooh – alaihi salaam) pleaded to Allaah for his son’s safety, and Allaah Ta`ala replied to him. This reply of Allaah Ta`ala was *wahi-ghair Kitaabi*, since Hadhrat Nooh (alaihi salaam) did not receive any divine Kitaab nor has it been established that he received any Scripture. *“O Nooh! Indeed he is not from amongst your family, indeed his actions are not virtuous.”* [Surah Hud, 42]

3. When Hadhrat Moosa (alaihi salaam) was proceeding away from *Madyan* with his family, then he saw the fire from the distance. When he came close to it, Allaah Ta`ala spoke to him. During this conversation, Allaah Ta`ala mentioned to him, *"Listen to that which is being revealed, indeed I am Allaah. There is no deity but Me, hence worship Me and establish Salaat for My remembrance."* [Surah Taha, 14]

The entire Qur`aan Majeed was revealed upon Nabi (sallallahu alaihi wasallam) through the medium of Hadhrat Jibraeel (alaihi salaam)

Wahi-e-Matloo, that is, *wahi Kitaabi* (Qur`aan Majeed) was entirely revealed to Nabi (sallallahu alaihi wasallam) via Hadhrat Jibraeel (alaihi salaam). Sometimes, he would come to Nabi (sallallahu alaihi wasallam) in the form of a man and recite the Aayaat in front of Nabi (sallallahu alaihi wasallam) who would miraculously memorise them. At times, he would appear in his original form and overcome the soul of Nabi (sallallahu alaihi wasallam) and impart the *wahi*, whereupon, Nabi (sallallahu alaihi wasallam) would comprehend and understand whatever has been revealed to him. Naturally, this second manner was difficult and strenuous upon the physical body of Nabi (sallallahu alaihi wasallam). When receiving *wahi* in this manner, it necessitated that he leave his physical form and be temporarily transformed to an angelic sphere. He would hear the sound of the *wahi* with the ears of the heart and see the angel with the eyes of the heart. With the divinely imbibed power in the heart, he would understand the knowledge of what was being revealed to him and he preserved it. Since Nabi (sallallahu alaihi wasallam) would have to leave his physical form to be able to receive *wahi* in this way, it was extremely difficult for him, and he sates this himself.

Proofs

1. *"Say (O Muhammad- sallallahu alaihi wasallam)! The Pure Soul (Jibraeel – alaihi salaam) has revealed it from your Rabb with truth."* [Surah Nahl, 102]
2. *"And truly, this (Qur`aan Majeed) is a revelation from the Rabb of the universe, which the trustworthy 'Ruh' (Hadhrat Jibraeel*

– alaihi salaam) has brought down, upon your heart (O Muhammad – sallallahu alaihi wasallam), that you may be one of the warners. In the plain Arabic language.” [Surah Shu`ara, 192-5]

3. *“He (Nabi - sallallahu alaihi wasallam) has been taught (this Qur`aan Majeed) by one mighty in power (Hadhrat Jibraeel – alaihi salaam), free from any defect in body and mind, then he (Jibraeel – alaihi salaam) rose and became stable.”* [Surah An-Najm, 5-6]
4. *“Verily, this is The Word (the Qur`aan Majeed brought by), a most honourable Messenger (Jibraeel – alaihi salaam), from Allaah to the Prophet (sallallahu alayhi wasallam). Owner of power, and high rank with the Rabb of the Throne, obeyed (by the angels), trustworthy there (in the heavens).”* [Surah Takweer, 19-21]

One difference between *wahi matloo and wahi-ghair matloo*

In *wahi matloo*, i.e. the Qur`aan Majeed, the words, literally are from Allaah Ta`ala, whereas in *wahi-ghair-matloo*, the import and meaning of Allaah Ta`ala’s revelation are explained and interpreted by Nabi (sallallahu alaihi wasallam).

General *Wahi* is a necessary speciality of Nubuwwat, not necessarily *wahi-Kitaabi*

The reason being that it is established from the Qur`aan Majeed that some injunctions are revealed to Nabis and Rasools by means of *Ghair Kitaabi Wahi*. For example,

1. *“And We have not made the Qiblah, upon which you were, except that We come to find out who follows the Rasool and who turn their heels.”* [Surah Baqara, Aayat 143]

From this Aayat we ascertain that the making of the Baitul Maqdis a Qiblah was through the Order of Allaah Ta`ala, whereas there is no order to this

effect mentioned in the entire Qur`aan Majeed. So this was also divine inspiration (wahi), but not (mentioned) in the Kitaab, Qur`aan Majeed.

2. *"O my son, indeed I saw in a dream that I am slaughtering you. So tell me what is your opinion. He said, 'O my father, do as you are commanded.'"* [Surah Saafaat, Aayat 104]

Most Mufassireen have stated this dream to be a Divine Order. The statement of Hadhrat Ismail (alaihis salaam), *"do as you are commanded"*, is a proof of this. Based on this, the father and son, carry out this injunction without the slightest hesitation.

The view of some researchers is that this dream is a base for the interpretation that a father slaughtering his son implies the sacrificing of a beautiful animal and it was to initiate the practice of Qurbani.

Nevertheless, whether the dream meant a literal sacrificing of the son or that of slaughtering an animal, it was nonetheless a divine Command, from another source besides a Kitaab.

3. *"O Nooh! Indeed he is not from your family. Indeed his actions are not pious."*[Surah Hud, Aayat 42]

Since some injunctions are revealed from sources other than a Kitaab, then there can be no reason for the prevention of all injunctions (on any prophet) to be revealed in forms other than a Kitaab. For wahi to be revealed in a form of a Kitaab upon any prophet is an added extra and special virtue bestowed by Allaah Ta`ala.

Ghair Kitaabi Wahi can also be legislative

1. The order to perform Salaat in the direction of Baitul Maqdis is legislative, whereas it was *Ghair Kitaabi*.
2. The Order for Hadhrat Ebrahim (alaihis salaam) to slaughter his son was also legislative, whereas it was revealed by means of *Ghair Kitaabi Wahi*.

3. *"Those date palms which you had cut, or those which you have left standing on their roots, was by the Order of Allaah."* [Surah Hashar, Aayat 5]

On the occasion of the besieging of the fort of the Bani Nadhir, the Muslims uprooted and caused damage to their date plantations, so that (when they see the damage to their crops) it may be a means of their coming out of their fort to face the Muslims in open warfare. Also, in the open war, the date-palms would not cause any obstruction. The detractors to the Islamic cause raised the objection that the Muslims claim to prevent mischief and damage but here they are the cause of damage by cutting the trees. At this juncture, Allaah Ta`ala confirmed the action of the Muslims by informing that whatever was carried out was by His Command.
This was also a *Ghair Kitaabi Wahi*, which was legislative.

The explanations, interpretations and Ijtihaad made by Nabi (sallallahu alaihi wasallam) of the Qur`aan Majeed, are effected by him in the position of a Prophet and not in that of a normal Mujtahid

1. The decision of taking *fidyah* from the prisoners from the Battle of Badr, was the result of Ijtihaad and a consultation with the Sahaabah (radhiallahu anhum). It was the opinion of Hadhrat Umar (radhiallahu anhu) and one two other Sahaabah (radhiallahu anhum) that the prisoners be executed, whereas the view of Hadhrat Abu Bakr (radhiallahu anhu) and others was that *fidyah* be taken from them. This was also the view of Nabi (sallallahu alaihi wasallam) and he gave his decision accordingly. Allaah Ta`ala corrected thereafter, *"It is not for a Prophet that he should have prisoners of war (and free them with ransom) until he had made a great slaughter (among his enemies) in the land. You desire the good of this world, but Allaah desires (for you) the hereafter. And Allaah is All-Mighty, All-Wise. Were it not a previous ordainment from Allaah, a severe torment would have touched you for what you took."* [Surah Anfaal, Aayats 67/8]

There are two things here which require contemplation,

a. By the use of the word, *"Prophet"* in the sentence, *"It is not for a Prophet that he should have prisoners of war…"*, indicates

that Nabi (sallallahu alaihi wasallam) made Ijtihaad as a Prophet, and not one of a normal Mujtahid.

b. The punishment of Allaah Ta`ala does not descend if the Ijtihaad of normal Mujtahids is incorrect, in fact, we cannot conclude with certainty regarding the correctness or error of this type of Ijtihaad. The least that we can say is that in our opinion the Ijtihaad of this Mujtahid appears correct and the Ijtihaad of the other is in error. There is always the possibility that the matter is in actual fact the opposite of this. The fact that Allaah Ta`ala has corrected Nabi (sallallahu alaihi wasallam) for his decision (Ijtihaad), proves that his Ijtihaad is different from that of normal Mujtahids.

From this we understand that the Ijtihaad of a Nabi is guided by Wahi, in such a way that if it complies with the pleasure of Allah Ta`ala, then fine, otherwise it is altered. Since the Ijtihaad of a Nabi is aided by Wahi, it is also counted as a part of Wahi.

The explanation of the above Aayat is that the actual taking of *Fidyah* was not totally incorrect, however, it was not in keeping with the status and position of Nabi (sallallahu alaihi wasallam). The principle is as follows, *"The good actions of (general) pious people, becomes a sin for those who are close to Allaah Ta`ala."*

2. *"Take that which the Prophet brings to you, and abstain from that which he forbids you from."* [Surah Hashar, Aayat 7]

In this Aayat, the words, *"that which the Prophet brings you*" and *"that which he forbids you"*, are general and apply to all the injunctions and prohibitions of Nabi (sallallahu alaihi wasallam). This applies whether the injunction of Nabi (sallallahu alaihi wasallam) appears in the Qur`aan Majeed, is implied or came in his discussion with the Sahaabah (radhiallahu anhum).

Another point here is that the statement, *"that which the Prophet brings you"* refers to whatever Nabi (sallallahu alaihi wasallam) instructs as being done by him in the rank of him being a Prophet.

The above explanations prove the contention of the refuters of the Ahaadith to be wholly erroneous. They aver that the principles laid down by the Qur`aan Majeed should be used as a base for Muslims to formulate their various rulings and that this alone must be the ruling authority by which Muslims are governed. From this, they say, new and contemporary matters can be ruled upon using only these Qur`aanic principles. In this way, their claim infers that the administration of Nabi (sallallahu alaihi wasallam) and all others until the present day are on the same level and rank. The only difference being that Nabi (sallallahu alaihi wasallam) was the means for the revelation of the Qur`aan Majeed.

CHAPTER TWO

THE PRINCIPLES OF TAFSEER

The definition of the Qur`aan Majeed

It is that (Scripture – its words and meaning) which has been revealed upon the Prophet, written in the pages and reported from him through a continuous and consistent chain of narrators.

The knowledge of Tafseer-e-Qur`aan

The word *Tafseer*, originates from the Arabic word *Fasara* on the scale of *Tafèel*, which means "to open", "explain". To open up and explain the meaning of the Qur`aan Majeed, is known as *Tafseer-e-Qur`aan.*

Since the Qur`aan Majeed is a combination of both words and meanings, hence, to explain and interpret the meaning of the Qur`aan Majeed, one needs to consider the words of the Qur`aan, and their connotations. One also needs to consider the concept of abrogation (*Naasikh Mansookh)*, the time and reason for revelations of the various Aayaat (*Asbaab-e-Nuzool)*, and one needs to delve into and extract the various laws and wisdoms.

Considering the above matters, Allamah Zarkashi (rahmatullahi alaihi) defines *Ilm-e-Tafseer* as follows, *"It is that knowledge whereby the Kitaab of Allaah which was revealed unto His Nabi, Muhammad (sallallahu alayhi wasallam) is understood, and its meanings explained and its injunctions and wisdoms extracted."* [Al-Itqaan, page 174, vol.2]

Allamah Abu Hayyaan (rahmatullahi alaihi) has explained further by stating, *"Tafseer, is that knowledge, where the manner of fulfilling the words and letters of the Qur`aan, the understanding of the laws of each and every letter, the make-up of the sentences and their various laws and injunctions are discussed. Where the meaning and reasons for the formation of the letters and sentences and their final meanings and outcomes are explained. This includes (consideration of) Naasikh Mansookh, Shaan-e-Nuzool and narratives."* [Ibid]

Who is able to make Tafseer of the Qur`aan Majeed?

In order for one to be able to make Tafseer of the Qur`aan Majeed, as explained above, it is obvious that one needs to have knowledge of the different sciences. Allamah Jalaaluddeen Suyuti (rahmatullahi alaihi) writes, *"And amongst them are those who say that it is permissible for that person to make Tafseer, who encompasses the various sciences (knowledges) which are needed to make Tafseer. In total these comprise of fifteen sciences.*

The first being knowledge of Arabic Lexicography. This is necessary so that one is able to recognise the different types of letters and words and their meanings and connotations. Mujaahid (rahmatullahi alaihi) said that it is not permissible for that person who believes in Allaah Ta`ala and the Day of Qiyaamah to comment on the Kitaab of Allaah, if he does not have the knowledge of Arabic lexicography. Imaam Maalik (rahmatullahi alaihi) said that if any person is brought to me who does not have deep knowledge of the Arabic lexicography, and he makes Tafseer of the Qur`aan Majeed, then I would administer a very severe punishment upon him.

It is not sufficient to have knowledge of a few dialects and meanings, since, many a times one word may have different and various meanings. In such a case the person making Tafseer may know one or two meanings, whereas in reality the word actually means something else.

The second being knowledge in Arabic grammar. This is necessary because the meanings of words change drastically with the changing of the I`raabs (dietrical marks/ vowel points). To recognize the changing in I`raabs, necessitates knowledge of Nahw (Arabic grammar).

The third being knowledge of Sarf (Arabic Syntax). The reason for this is that changes in the various grammatical forms and cases have an effect on the meanings of sentences. Ibn Faaris stated that the person who lacks the knowledge of Sarf, lacks a great deal.

The fourth being the knowledge of Ishtiqaaq (ascertaining the root of a word). The reason being that some words originate from different root-

words, hence giving rise to divergent meanings. For example the word 'Maseeh', it originates from the word, 'Masahah' which means to wipe or to pass a wet hand over something, and it originates from the word, 'Masaahat', which means to travel, traverse and measure.
The fifth being the knowledge of Ilm-e-Ma`aani, whereby the specialities of the formulation of speech is learnt.

The sixth being Ilm-e-Bayaan, where the apparent, hidden, comparative and metaphorical meanings of words are discerned.

The seventh being Ilm-e-Badee`, where the eloquence of speech is learnt.

The above three are known as Ilm-e-Balaaghat. This knowledge is imperative for the Mufassir since the Speech of Allaah Ta`ala is in itself marvellous and miraculous. The reality of this marvel can only be discerned with the knowledge of Balaaghat.

The eighth being the knowledge of Qiraat (proper recital in the various dialects). The reason being that various meanings are found in the different dialects and some meanings are granted preference over others.

The ninth being the knowledge of Aqaa`id (beliefs). The reason being that there are some Aayaat whose literal meaning is not in conformity to the Pure and Unblemished Being of Allaah Ta`ala. For example, "Ar-Rahmaan is established on the Arsh", to take the meaning here that Allaah Ta`ala establishes and sits upon a Throne like that of worldly kings is incorrect. So in such cases, what meaning should one opt for? This knowledge one acquires from the knowledge of Aqaa`id.

The tenth being the knowledge of the principles of Fiqh, whereby one learns the method of extracting proofs.

The eleventh being the knowledge of Asbaab-e-Nuzool. The reason being that by knowing the time and condition of revelation, the meaning of the Aayat becomes more clear. There are also times where the meaning of the Aayat is only known through knowledge of Shaan-e-Nuzool.

The twelfth being the knowledge Naasikh Mansookh. The reason for this is so that the abrogated Aayaat may be separated from those upon which practice should be made.

The thirteenth being the knowledge of Fiqh. This, so that one may understand the bases of the various general principles.

The fourteenth being the knowledge of those Ahaadith which explain the Aayaat of the Qur`aan Majeed.

The fifteenth being the knowledge of 'wahabi'. That is, that special knowledge which is granted by Allaah Ta`ala to only some special servants of His. The following Hadith indicates towards this, 'That servant who practices upon what he knows, Allaah imbues him with such knowledge which he never knew.'

NOTE: Ibn Abi Dunya (rahmatullahi alaihi) states, 'The Sahaabah (radhiallahu anhum) and the Tabieen (rahmatullahi alaihim) had acquired the Arabic language naturally (i.e. it was their mother-tongue and they were sincere personalities, in whose midst the Qur`aan Majeed was revealed, hence there was no need for them to acquire or study the various sciences regarding the Arabic language). All the other sciences which are necessary for Tafseer, was acquired by them through Nabi (sallallahu alaihi wasallam)." [Al-Itqaan, page 181, vol.2]

The Sources of Tafseer

The sources of Tafseer refers to those means and resources whereby the Tafseer of any Aayat is understood.

There are two types of Qur`aanic Aayaat. Some Aayaat are so clear that those who
understand the language will immediately know its meaning and import. Hence the source of such Aayaat is the Arabic language. Nevertheless, together with this, one needs to have a sound and rational intellect.

The second type of Aayaat are those whose meaning is not understood by mere knowledge of the Arabic language. The sources for the Tafseer of such Aayaat are;

(1) The Qur`aan Majeed itself,
(2) Ahaadith-e-Nabawi,
(3) The statements of the Sahaabah (radhiallahu anhum) and
(4) The statements of the Tabieen (rahmatullahi alaihim).

The first source is the Qur`aan Majeed itself

That is, at times some Aayaat make Tafseer of others. At some junctures the matter may be ambiguous and in another place this ambiguity is removed. For example,

1. It is stated in Surah Faatihah, *"Guide us on the Straight Path, the Path of those whom You have favoured."* In this Aayat the identity of those who have been favoured is not clarified. However, this question is answered in another Aayat, *"They are the ones upon whom Allah Ta`ala has favoured, amongst the Prophets, truthful ones, martyrs and the pious ones."*

2. It is stated in one Aayat, *"Aadam learnt from his Rabb some words, thus He forgave him."* However, here the actual words are not mentioned. They are mentioned in another Aayat, *"The two of them (Hadhrat Aadam and Hawa - alaihima salaam) said, 'O our Rabb! We have wronged our souls and if You do not forgive us and shower Your Mercy upon us, then we will surely be amongst the losers.'"*

3. It is mentioned in one Aayat, *"O you who believe, fear Allaah and be amongst the truthful ones."* In this Aayat no mention is made of who the *"truthful ones"* are. Nevertheless, this is clarified in another Aayat, *"Goodness (piety) is not that you turn your faces towards the east or west.*

   However, pious are those who believe in Allaah, The Last Day, the angels, The Kitaab and the prophets. They give from their wealth out of love for Him to their near kin, the poor, the needy, the

travellers, the beggars and the captives. They establish Salaat, give Zakaat and they fulfil their pledges when they make a pledge. They are patient in difficult and constrained conditions and at the time of battle. These are the ones who are truthful, and these are the ones who are pious." [Surah Baqara, Aayat 177] This Aayat clarifies and explains who the truthful ones and amongst whom these qualities are found.

4. Another example of Tafseer of Qur`aan by Qur`aan, is where there is ambiguity in one Qiraat (type of dialect), and this is clarified in another Qiraat. Some dialects recite the Aayat, *"Faghsiloo Wujoohakum…*(until) *Wa Arjul**i**kum Ilal Ka`bain"*. Here there is a possibility of translating the last part as - making *masah* on the head and feet. This uncertainty is clarified by the dialect of Imaam Haffs (rahmatullahi alaihi) which reads as *"Wa Arjul**a**kum…"*. Here there is only one possibility of translating and that is – the feet must be washed.

   In this case the second dialect has confirmed the meaning of the former one to mean that the feet must be washed and not made *masah* upon.

The second source is the Ahaadith-e-Nabawi

It has been mentioned in various Aayaat in the Qur`aan Majeed that one of the necessary duties of Nabi's (sallallahu alaihi wasallam) position is the clarification and teaching of the Qur`aan Majeed.

1. *"And We have revealed to you the Thikr (Qur`aan Majeed) so that you may explain to the people that which has been revealed to them."* [Surah Nahl]

The teachings of the Qur`aan Majeed comprises of Aqaa`id (beliefs), Muaamalaat (dealings), Jinaayaat (penalties), Hudood (punishments), Qisas (retribution), Siyar and Ghazawaat (expeditions and battles). It also teaches pious actions, excellent character, planning and administration of home and government, etc. It encompasses all aspects and chapters of life. It deals with some in detail, others briefly and others by mere indication.

Therefore, it falls under the scope of this Aayat that it is a necessary for the speech and actions of Nabi (sallallahu alaihi wasallam) to be a means of explanation of those aspects of the Qur`aan Majeed which are ambiguous and unclear.

For example, if we consider the injunction of Salaat. If one takes all the Aayaat regarding Salaat and place them together, one will still not be able to perform one Rakaat of Salaat without the active demonstration portrayed by Nabi (sallallahu alaihi wasallam). The speech and actions of Nabi (sallallahu alaihi wasallam) is known as Hadith. In short, the Qur`aan Majeed gives the injunction of establishing Salaat, but the Tafseer of Salaat and the establishing thereof is found in the Ahaadith (and Sunnat of Nabi sallallahu alaihi wasallam).

NOTE: The explanation and Tafseer given by Nabi (sallallahu alaihi wasallam) is also not his own, but it is from Allaah Ta`ala. In this regard, it is mentioned in the Qur`aan Majeed, *"Do not move your tongue concerning it (memorising the Qur`aan Majeed), to make haste therewith. Indeed it is upon Us to collect it and give you the ability to recite it. And when We have recited it to you (O Muhammad – sallallahu alayhi wasallam, through Jibraeel - alaihis salaam), then follow you its recital. Then it is for Us (Allaah) to make it clear to you."*

In this blessed Aayat, Allaah Ta`ala takes the responsibility of dilating upon the Qur`aan Majeed. From this we realise that the Hadith of Rasulullaah (sallallahu alayhi wasallam) is also Wahi. It is however, of the category of *Ghair Kitaabi*.

Besides this, we should consider this as well that Allah Ta`ala has taken the responsibility of explaining the Qur`aan Majeed upon Himself. Whatever appears in the Qur`aan Majeed that *is* the Qur`aan. Its explanation forms part of what is besides the Qur`aan Majeed itself.

2. *"Indeed Allaah has blessed the believers when He sent amongst them a Rasool from amongst themselves, to recite upon them the verses, and purify them and teach them the Kitaab and Wisdom, even though they were in plain deviation before."*

It is clear that whatever Nabi (sallallahu alaihi wasallam) taught of the Qur`aan Majeed, it is safeguarded in the Ahaadith.

Haafiz Ibn Abdul Barr (rahmatullahi alaihi) states in his Kitaab, *Jaamiul Bayaan*, *"It has been reported from the great Sahaabi, Hadhrat Imraan Bin Husain (radhiallahu anhu) that a person came and asked him regarding something. He narrated a Hadith to him. The man said, 'Tell us from the Kitaab of Allaah and not from any other.' Hadhrat Imraan Bin Husain (radhiallahu anhu) told him, 'You are an ignorant person. Where have you seen in the Qur`aan Majeed that the Qiraat in the four Rakaats of Zuhr Salaat must be read loudly?' He then went on to explain to him the rulings regarding Salaat and Zakaat etc. and asked him if he found any of this in detail in the Qur`aan Majeed. The Qur`aan Majeed lists these in brevity, whereas the Sunnat makes Tafseer thereof."*

Khateeb Baghdadi (rahmatullahi alaihi) mentions this incident in his Kitaab *Al Kifaaya Fi Ilmir Riwaaya*, as follows, *"A person came to Hadhrat Imraan Bin Husain (radhiallahu anhu) and told him, 'What are these Ahaadith which you narrate to us, whilst you omit the Qur`aan Majeed?' Hadhrat Imraan (radhiallahu anhu) said, 'If you and your companion do not accept besides the Qur`aan Majeed (i.e. the Ahaadith), then how will you know how many Rakaats there are in Zuhr Salaat? Or how many Rakaats in Asr or what their times of performance are, or how many Rakaats in Maghrib Salaat, or the duration of stay in Arafat (during Hajj), or the method of stoning the Jamaraat? How will you know where to cut the hand from (for the thief), from here or there?' And he placed his hands at the centre of his palms and at the wrists. He said further, 'Those Ahaadith which we relate to you, you should follow them, otherwise, I take an oath on Allaah's Name, you will go astray.'"*

Haafiz Suyuti (rahmatullahi alaihi) has also narrated this incident in *Miftaahul Jannat Fil Ihtijaaj Bis Sunnah*, and he has added this portion, *"Hadhrat Imraan Bin Husain said, 'Did you not hear the Aayat, 'That which the Rasool brings to you, take it, and abstain from that which he prohibits you from.' He then said, 'We have learnt those things from Nabi (sallallahu alaihi wasallam) which you have no knowledge of.'"*

Imaam Baihaqi (rahmatullahi alaihi) narrates that Ayyub Sakhtiyaani (rahmatullahi alaihi) states, *"A person said to Mutraf Bin Abdillaah Shakheer (rahmatullahi alaihi), a great Tabi`ee, 'Do not narrate to us except from the Qur`aan Majeed.' He replied, 'Our aim is not to derive any recompense from the Qur`aan, in fact our aim is (to acquire and learn the beauty of the Qur`aan Majeed from) such a personality who is more well versed in the Qur`aan Majeed than us (i.e. Nabi - sallallahu alaihi wasallam)."*

Comment on the statement of Imaam Ahmad with regard to Ahaadith in relation to Tafseer

Two views have been attributed to Imaam Ahmad (rahmatullahi alaihi):

1. *"In my opinion there is no authentic Ahaadith of Tafseer."*
2. *"There are three Kitaabs (or things) which have no base, (those regarding battles, skirmishes and Tafseer."*

Comment

Firstly, it appears that these statements are not from Imaam Ahmad (rahmatullahi alaihi), since he had himself listed numerous Ahaadith regarding Tafseer in his *Musnad*. How can these statements be believed when on the one hand he lists these Ahaadith in his Kitaab and on the other he refutes the validity of such Ahaadith? (This would also imply that all Tafseeri Ahaadith are fabricated and unauthentic.)

On the other hand, if we accept the statements as actually being from Imaam Ahmad (rahmatullahi alaihi), and that all the things listed above (in the purported statement) are lies and unauthentic, then it would follow that not only are the Tafseeri Ahaadith, but also all the Arab narrations and all the battles fought by the Muslims are untrue and unsubstantiated. No rational and intelligent person can ever accept this contention.

If we are to accept that these statements are in actual fact from Imaam Ahmad (rahmatullahi alaihi), then a suitable interpretation has to be found for it. For this, we need to understand one point, and that is, for the Muhadditheen to accept any Hadith as *saheeh* (authentic), then the chain of

narrators of that Hadith right upto Nabi (sallallahu alaihi wasallam) has to comprise of personalities whose memory is without flaw and they are all pious and Allaah-fearing people. Each link in the chain has to have heard the Hadith from the previous link. There has to be no break in this chain and there must not be any such excuse found which can render the narration to be weak.

If any narration does not conform to this standard, then the Muhadditheen do not regard such a Hadith as a *saheeh* one, even though such a Hadith may be an acceptable one and one used as a proof. For example, if a Tabi`ee narrates a Hadith which he heard from a Sahaabi, but he omits the Sahaabi's name when narrating and attributes the Hadith directly to Nabi (sallallahu alaihi wasallam), then the Muhadditheen would not classify such a narration as *saheeh*, they would rather call it a *mursal* narration. This is with regard to their own standards and classifications. Otherwise, a *mursal* Hadith can also be used a proof.

Hence, if the statement attributed to Imaam Ahmad (rahmatullahi alaihi) is regarded as true, then by his saying that no Tafseeri Hadith is *saheeh*, he means it according to the definition of the Muhadditheen, but they are nonetheless, *mursal*.

Allamah Suyuti (rahmatullahi alaihi) states in *Al Itqaan, "Imaam Ibn Taymia states that those Ahaadith of Tafseer which can be regarded as saheeh are, Alhamdulillah, in abundance, even though Imaam Ahmad had stated that there are three things which have no base. The reason for this (statement of his), is that most of the Ahaadith regarding Tafseer are mursal."*

Regarding the *"three things or three Kitaabs",* Khateeb Baghdadi (rahmatullahi alaihi) states, *"This statement of Imaam Ahmad (rahmatullahi alaihi) with regard to the three subjects, refers to specific Kitaabs which he is negating. Like the Tafseeri Ahaadith Kitaabs of Kalbi and Muqaatil Bin Sulaimaan, which (at that time) have become common (famous) amongst the masses. In this regard, Imaam Ahmad was referring to the Tafseeri Ahaadith Kitaab of Kalbi, implying that it comprised of only lies from beginning to end. Its reading is also not permissible."*

In essence he was saying that during his era, there was no authentic Kitaab regarding any of these three subjects available. It does not mean that all the Ahaadith regarding Tafseer, battles and skirmishes, including those listed in his *Musnad* are without any base and unauthentic. [*Islaam mè Sunnat Wa Hadith Ka Maqaam, page 428, vol.2*]

The third source – The Statements of the Sahaabah (radhiallahu anhum)

The Sahaabah (radhiallahu anhum) were the direct means of teaching and propagating the lessons and Tafseer of the Qur`aan Majeed, from Nabi (sallallahu alaihi wasallam). Some of them dedicated their entire lives in teaching and imparting the Qur`aan Majeed, both in theory and practise. The Sahaabah (radhiallahu anhum) were personalities whose mother-tongue was Arabic and they were also well aware of the context in which the various Aayaat were revealed, yet they found it necessary to learn the Qur`aan Majeed and its Tafseer.

The famous Tabi`ee, Imaam Abu Abdir Rahmaan Salami (rahmatullahi alaihi), states, *"We were taught by those personalities who used to recite the Qur`aan Majeed, like Uthmaan Bin Affaan, Abdullaah Bin Mas`ood (radhiallahu anhuma) , etc. They (were such personalities who), when taught by Nabi (sallallahu alaihi wasallam) would not learn more than ten Aayaat at a time, until they mastered whatever it contained in knowledge and practice."*

For this reason, it is reported in Musnad-e-Ahmad from Hadhrat Anas (radhiallahu anhu), *"When any person used to recite Surah Baqara and Aale Imraan, then he would be exalted in our eyes."*

It is reported in Muwatta Imaam Maalik, *"Ibn Umar learnt Surah Baqara in eight years."*

These eight years was not merely to memorise the Surah, because his memory was not deficient or weak. Together with memorising, he learnt its Tafseer and details of each and every syllable.

Hadhrat Abdullaah Bin Mas`ood (radhiallahu anhu) states, *"I take an oath on that Being besides Whom there is none worthy of worship, there is not a single Aayat in the Qur`aan Majeed which was revealed, regarding which I am not aware of the context and place of its revelation. If I knew anyone who knew more of the Qur`aan Majeed than I, and it was possible for me to reach him by conveyance, then I would most certainly go to him."*

The fourth source – The Statements of the Tabieen (rahmatullahi alaihim)

Haafiz Ibn Katheer (rahmatullahi alaihi) stated that if any Tabi`ee related a Tafseer from any Sahaabi, then the ruling of that Tafseer would be the same as the Tafseer of a Sahaabi. If he (Tabi`ee) states his own opinion, then it will be seen if any other statement of another Tabi`ee contradicts his or not. If there is another conflicting view, then this Tafseer will not be used a proof, rather, for the Tafseer of that Aayat, the Arabic language, Ahaadith of Nabi (sallallahu alaihi wasallam), narrations of Sahaabah (radhiallahu anhum), and other Shar`i proofs will be used (to make Tafseer of that particular Aayat). If however, there is no difference between the Tabieen regarding a Tafseer, then without doubt it will be regarded as a proof and accepting it will be imperative (upon the Ummat).

The manner of Tafseer

Allamah Jalaaluddeen Suyuti (rahmatullahi alaihi) sates in his Kitaab *Al-Itqaan, "If any person desires to make Tafseer of the Qur`aan Majeed, then he has to first seek a Tafseer in the Qur`aan Majeed itself, because (at times) an Aayat may be stated in brief in one place and then its explanation or definition is given at another juncture. At one place it may be concise and in another in detail. Allamah Ibn Jauzi (rahmatullahi alaihi) has compiled such a Kitaab wherein he has listed all such subjects from the Qur`aan Majeed where they are stated briefly in one Aayat and then its Tafseer (details) are in another Aayat.*

If a Tafseer cannot be found in the Qur`aan Majeed itself, then one has to look at the Sunnat, because the Sunnat is the commentary of the Qur`aan Majeed and it dilates it. Imaam Shaafi (rahmatullahi alaihi) states that

whatever instruction Nabi (sallallahu alaihi wasallam) issues is as he has understood it from the Qur`aan Majeed. Allaah Ta`ala says, 'Indeed We have revealed to you (O Muhammad - sallallahu alayhi wasallam!) the Kitaab, with truth so that you may adjudicate amongst the people, as Allaah has shown you.'[Surah Nisaa, Aayat 106]

Rasulullaah (sallallahu alayhi wasallam) said, 'Know! I have been given the Qur`aan, and its equivalent.'

If the Tafseer cannot be found in the Sunnat, then one needs to refer to the statements of the Sahaabah (radhiallahu anhum), because (after Nabi - sallallahu alaihi wasallam) they are most knowledgeable of the Qur`aan Majeed and (they witnessed) the context in which it was revealed. Another reason being that they fully understood the Qur`aan Majeed, and they practised thereupon with total sincerity.

If there appears to be any contradiction amongst the Sahaabah (radhiallahu anhum) regarding a Tafseer, then if it is possible to extract a common meaning from all the views, then do so. For example, regarding the Aayat of 'Siraatal Mustaqeem', where some aver it to mean the Qur`aan Majeed, others, the path of the Ambiyaa (alaihimus salaam), others the Sunnat, others the path of Nabi (sallallahu alaihi wasallam), others, say the path of Hadhrat Abu Bakr (radhiallahu anhu) and Hadhrat Umar (radhiallahu anhu), etc. So from here the common meaning of 'Path of Hidaayat' is adopted as being meant by 'Siraatal Mustaqeem'. In this way, one is not negating any view by adopting the one common meaning. By taking this one meaning, is as though one is taking all the meanings. Also, to adopt any one of the meanings would also not be incorrect.

If there is such a difference amongst the views of the Sahaabah (radhiallahu anhum), that one cannot extract a common meaning, then one will choose that meaning which can be backed by some written proof. If no other proof can be found to substantiate any of the views, then the one to be opted for is the one which has the strongest proof. For example regarding the Huroof-e-Muqata`aat, (The Broken Letters) the following views are presented by the Sahaabah (radhiallahu anhum),

a). Hadhrat Abu Bakr (radhiallahu anhu) said that in every Divine Scripture, there is some secret of Allaah Ta`ala therein, and in the Qur`aan Majeed the secret of Allaah Ta`ala lies in the beginning of the Surahs (in the Huroof-e-Muqata`aat). In other words, we do not know the meanings of the Huroof-e-Muqata`aat. Hence this is part of the unclear things.

b). Others have not included it in the unclear things and they have offered meanings for them – Hadhrat Ali (radhiallahu anhu) states that these are the Names of Allaah Ta`ala in syllable form. If anyone knows the compilation and formation of these Names, then his duas will be accepted by virtue of this.

c). Hadhrat Abdullah Bin Abbaas (radhiallahu anhu) was asked regarding the letters 'Aleef Laam Raa', 'Haa Meem' and 'Noon', and he said that these syllables make up the Name of Allaah – Ar-Rahmaan.

d). It is also reported from Hadhrat Abdullah Bin Abbaas (radhiallahu anhu) that just as Allaah Ta`ala had taken oaths in other words, He takes oaths in these letters.

(Allamah Suyuti -rahmatullahi alaihi- gives his opinion that) From all the above views, the last one appears to be the most correct since the proof given for this is strongest. If there is a difference in the meanings of these words, then the one making Tafseer must understand that there is unclarity in this. Nevertheless, whatever words which appear in the Qur`aan Majeed, we bring Imaan in them, but none can claim certainty in any specific meaning."[Page 175-6, vol.2]

Tafseer of opinion and its ruling

It is reported in the Hadith:

i). *"Hadhrat Ibn Abbaas (radhiallahu anhu) reports that Nabi (sallallahu alaihi wasallam) said, '' If anyone comments on the Qur`aan Majeed from his ownself, then he is making a place for himself in the Fire.' It is reported in another narration that the person who comments on the*

Qur`aan Majeed without having knowledge, then he is making a place in Jahannum." [Tirmidhi]

ii). *"It is reported from Jundub that Nabi (sallallahu alaihi wasallam) said, 'If a person comments on the Qur`aan Majeed of his own opinion and even if he is correct, he has erred.'"* [Tirmidhi/Abu Dawood]

iii). *"It is reported from Ibn Sireen (rahmatullahi alaihi) that this knowledge (Qur`aan Majeed Tafseer) is part of the Deen, thus see who you acquire this Deen from."*[Mishkaat, Kitaabul Ilm]

Mullah Ali Qaari (rahmatullahi alaihi) explains on commenting on opinion, in *Mirqaatul Mafaateeh*, as follows, *"Tafseer by opinion is when one makes Tafseer without having acquired the Arabic language and the specified Shar`i outlines (with regard to making Tafseer), such that,*

a). Whatever one's intellect dictates, one accepts, whereas it maybe such a thing which is not in conformity with written or rational proofs.

b). Or it may conform to the apparent, but it is based on rational reasoning.

c). Or a person may have taken into consideration some aspects of 'Uloom-e-Ilaahi' (divinely inspired knowledge), whilst omitting others."

The types of Tafseer by opinion

"Ibn Naqeeb (rahmatullahi alaihi) states that there are five types of Tafseer by opinion;

The first type is when Tafseer is made without having acquired the necessary sciences required to be able to make Tafseer.

The second type is when Tafseer is made of those unclear matters, the meaning whereof is only known to Allaah Ta`ala.

The third type is when some deviant sect is proven in the Tafseer, where one makes this deviant sect the principle and the Qur`aan Majeed its subservient.

The fourth type is to certify something as being from Allaah Ta`ala without having sound proof to back the claim.

The fifth type is to make Tafseer subject to one's own whims and fancies.

CHAPTER THREE

THE PRINCIPLES OF HADITH

Sunnat or Hadith

The definition of Sunnat in the Arabic language

1. Ibn Dareed, defining Sunnat, writes in his Kitaab, *Al Jamharah*, *"The meaning of Sunnat is well known. It is said that a person has initiated a good Sunnat or an evil Sunnat (i.e. he has begun a good or evil trend).*

2. Allamah Zamakhsharee (rahmatullahi alaihi) writes, describing Sunnat, in his Kitaab, *Asaas, "A certain person has initiated a good Sunnat, i.e. he has started a good practice, or a certain person has followed a Sunnat, i.e. he has practised upon it."*

3. Allamah Ibn Manzoor Afriqi, writes in his Kitaab *Lisaanul Arab, "Sunnat is also defined as 'Seerat' (character), be it good or evil."*

4. It is stated in *Lisaanul Arab, "If any person initiates any action and the people after him continue on this practice, then it is said that so and so has started this Sunnat."*

5. The statement of Shamar Bin Hamoodiyah is stated in *Lisaanul Arab, "Sunnat is that Path whereupon the first people tread, such that it becomes an established way for those who follow. It is said that a certain person has initiated a certain action, when someone begins a good action, whereof the masses are unaware and which they follow after seeing him do it."*

From the above citations, we learn that the literal definition of Sunnat is action or way, which is followed up by the latter generations, or that which the people have opted for.

In other words, Sunnat is that path which is followed and imitated. Based on this, Sunnat is best described as *“A path which is followed”*. This could refer to both, a good and evil path. Those who have stated it as being a good action, merely state so by way of example and illustration. A Sunnat is not necessarily attributed to only a good act. In the Qur`aan Majeed and Ahaadith it is used in both contexts.

As far as attributing it to a good act, it is stated in the Qur`aan Majeed, *“The Sunnat of those prophets We had sent before you.”* [Surah Israa]

In context of an evil act, it is stated in the Qur`aan Majeed, *“In this way We place in the hearts of the evildoers, they do not bring Imaan in the Prophet. Indeed the way (Sunnat) of the previous nations has been laid out.”* [Surah Hajar]

Similarly, the word Sunnat has been used in both contexts in one Hadith, *“Whosoever initiates a good Sunnat, for him is its reward and the reward of whoever else follows it, without their reward being diminished in the least bit. And whoever initiates an evil Sunnat, for him will be the punishment thereof, and the punishment of those who follow it, without their punishment being decreased in the least bit.”*

The meaning of Sunnat in Islam

It has been established above that the literal definition of Sunnat is *“A Path which is followed”*. Keeping this definition in mind, the Shar`i definition of Sunnat would be *“A path which is followed in Deen”*.

Nevertheless, there are two differences here:

1. Since there is only goodness in Deen, and it is the very antitheses of evil, the meaning in this context would only refer to a good Sunnat.

2. Since the word Sunnat refers to following someone, hence in the context of Deen it would refer to following only those people whom the Shariah advocates.

What type of people does the Shariah advocate we follow?

1. Rasulullaah (sallallahu alayhi wasallam) – It is stated in the Qur`aan Majeed, *"There is indeed for you an excellent example in the Rasool of Allaah, for those who desire Allaah and the Last Day."*

2. The Sahaabah (radhiallahu anhum) – It is stated in the Qur`aan Majeed, *"If they bring Imaan the way you people have brought Imaan, then they will also be guided aright."* This Aayat addresses the Sahaabah (radhiallahu anhum). It is reported in a Hadith, where Nabi (sallallahu alaihi wasallam) said, *"My Sahaabah are like the stars. Whichever one of them you follow, you will be guided."*

The under-mentioned are referred to as Sunnat in the Deen

1. Sunnat-e-Rasool

Rasulullaah (sallallahu alayhi wasallam) said, *"I have left for you two things, which if you hold fast onto, you will never be deviated; The Kitaab of Allaah and the Sunnat of His Rasool."*

2. Sunnat of the Khulafaa-e-Raashideen

Rasulullaah (sallallahu alayhi wasallam) said, *"Binding upon you is my Sunnat and the Sunnat of the Khulafaa-e-Raashideen Al-Mahdiyeen."*

3. Sunnat of the Sahaabah (radhiallahu anhum)

Hadhrat Abdullah Ibn Mas`ood (radhiallahu anhu) stated, *"Whoever wishes to follow any Sunnat, then he should opt for the Sunnat of that person who has passed away, because there is no certainty regarding the living not falling into Fitnah. These are the Companions of Muhammad (sallallahu alayhi wasallam)."*

Since the statements and actions of the Sahaabah (radhiallahu anhum) are regarded as Sunnat, Hadhrat Sa`eed Bin Musayyib (rahmatullahi alaihi) had listed a certain Mas`alah as a Sunnat and it is stated in *Mabsoot* that here (in this ruling) was meant the Sunnat of Hadhrat Zaid Bin Thaabit (radhiallahu anhu). [Page 33, vol.2]

Sunnat of the Tabieen (rahmatullahi alaihim)

The action, way or manner of a Tabi`ee or anyone who comes after them cannot be termed as a Sunnat as would the statement of Nabi (sallallahu alaihi wasallam) or any Sahaabi (radhiallahu anhu). However, owing to the Hadith of *"The best of eras are my era, and the one after that and the one after that",* the era of the Tabieen and Tabè Tabieen are being lauded by Nabi (sallallahu alaihi wasallam), and because of this Imaam Maalik and Imaam Auzaa`i (rahmatullahi alaihima), who were from amongst the Tabè Tabieen, regarded the actions of the Tabieen as being worthy of following and they would even label them as Sunnat.

Unlike Imaam Maalik and Auzaa`i (rahmatullahi alaihima), Imaam Abu Hanifah (rahmatullahi alaihi), who was from the Tabieen, would not regard any action or statement of another Tabi`ee as worthy or necessary to follow. He would say,

"That way of Nabi (sallallahu alaihi wasallam) which reaches us, we accept wholeheartedly. Those narrations and ways of the Sahaabah (radhiallahu anhum) which reach us, we choose one from amongst them without omitting anything therefrom. As for those ways which reach regarding the Tabieen, we are men and they are men (i.e. just as they make Ijtihaad and reach their conclusions, we too can do the same)."

However, as for those senior Tabieen, whose rulings became widespread during the existence of some Sahaabah (radhiallahu anhum), their statements are regarded as being worthy of proof by the Ahnaaf, because it has the tacit approval of the Sahaabah (radhiallahu anhum). Therefore, the Hanafis accept the Ijtihaad of the Tabieen in establishing rulings etc., and regards their ways as being virtuous and also grant permissibility in calling it Sunnat, but this is not expressly stated.

Now, we have in front of us two categories of Sunnat – Sunnat-e-Rasool and Sunnat-e-Sahaabah. From these the Sunnat-e-Rasool is the perfect one, because without any shred of doubt this is the one which is to be followed unrestrictively. As for the Sunnat of the Sahaabah (radhiallahu anhum), theirs is due to the direct influence of Sunnat-e-Rasool. It is based on Sunnat-e-Rasool and completely in conformity thereto.

The crux of the matter is that since Sunnat-e-Rasool is the actual Sunnat and when the word 'Sunnat' is used, it applies generally to Sunnat-e-Rasool. It is also stated so in a narration, *"The crux of the matter is that when a narrator says something is from the Sunnat, then according to the general Hanafi and Shaafi Aimmah and the majority of Muhadditheen, this refers to Sunnat-e-Rasool. From amongst the latter Hanafi Aimmah, this is also the view of the author of Mizaan."*

According to the Usooliyeen also, when they speak about the four sources of Shariah, (Qur`aan Majeed, Sunnat, Ijma and Qiyaas), and they mention Qiyaas, which includes the Ijtihaad of the Sahaabah (radhiallahu anhum), then their referral to Sunnat only applies to Sunnat-e-Rasool.

An explanation of this appears in the incident where Nabi (sallallahu alaihi wasallam) was bidding farewell to Hadhrat Ma`aaz (radhiallahu anhu), who was off to Yemen. Nabi (sallallahu alaihi wasallam) asked him, *"How will you adjudicate a matter."* Hadhrat Ma`aaz (radhiallahu anhu) replied, *"I will rule according to what is in the Qur`aan Majeed."* Nabi (sallallahu alaihi wasallam) then asked him, *"What if you cannot find it in the Qur`aan Majeed?"* Hadhrat Ma`aaz (radhiallahu anhu) replied, *"I will then give a ruling according to the Sunnat of Rasulullaah (sallallahu alayhi wasallam)."* Nabi (sallallahu alaihi wasallam) asked, *"What if you cannot find it in the Sunnat of Rasulullaah (sallallahu alayhi wasallam)?"* Hadhrat Ma`aaz (radhiallahu anhu) replied, *"I will then make Ijtihaad and give my view without any compromise."*

Since, during the era of the Sahaabah (radhiallahu anhum), there was no need for Ijma, there only existed these three sources of the Shariah – Kitaabullaah, Sunnat and the Qiyaas and Ijtihaad of the Sahaabah

(radhiallahu anhum). The object of stating "Sunnat" refers solely to the Sunnat of Nabi (sallallahu alaihi wasallam). As for the Sunnat of the Sahaabah (radhiallahu anhum), their statements and actions are either the direct effect of what they saw or heard Nabi (sallallahu alaihi wasallam) saying or doing, or it is the result of their own Ijtihaad. Their Ijtihaad actually falls under the category of Qiyaas, but since we are instructed to follow it, therefore, Imaam Abu Hanifah (rahmatullahi alaihi) adheres strictly to their 'Sunnat'.

Note: From our above discussion, it is clear that the view of those modernists who aver that the ways of the general masses also be included as Sunnat and be counted as a proof of Deen, is completely erroneous. The reason being that the ways of the general masses are not gleaned or acquired from any Mujtahid's Qiyaas or Ijma, hence its following is not binding according to the Qur`aan Majeed and Sunnat of Rasulullaah (sallallahu alayhi wasallam). Therefore to refer to it as Sunnat and a Shar`i proof is completely incorrect and misleading.

Continual practise (*Tawaatur-e-Amali*) is not a condition of Sunnat

The meaning of *Tawaatur-e-Amali* is that a certain practise is continued and practised on by a large group of people right from the era of Nabi (sallallahu alaihi wasallam) and in every subsequent era, until the present time. Owing to this continual chain, it would be absurd and impossible to regard them all to be liars.

Although there are many such actions which have come to us through *Tawaatur-e-Amali*, like the use of Miswaak, the five Daily Fardh Salaat, the Rakaats of the Salaat, the sequence of Qiyaam, Ruku and Sajdah, etc., etc., however to establish any act as a Sunnat, it is not necessary for it to be *Tawaatur-e-Amali*. It is stated in a Hadith from Hadhrat Bilal Bin Haarith Al Muzani (radhiallahu anhu) that Nabi (sallallahu alaihi wasallam) said, *"He who revives a Sunnat from amongst my Sunnat which has died after me (my departure), will receive the reward of all those who practise upon it, without their reward being diminished in the least…"* [Tirmidhi/Mishkaat]

That Sunnat which has been abrogated no longer remains a Sunnat

Since the meaning and import of Sunnat is to follow and imitate, hence those Sunnats which have been abrogated, although prior to their abrogation, they were worthy of being followed, nevertheless, they no longer remain so, and are no longer regarded as Sunnat. Even though they may be termed as 'Sunnat', they will now be referred to as "Abrogated Sunnats". This in itself proves that it is no longer a Sunnat.

In essence, for the survival of any Sunnat, it is necessary that it not be abrogated. There are two ways of abrogation - the one is where it is expressly stated that a certain action was Sunnat at first and has now been replaced by another, like for example, where Nabi (sallallahu alaihi wasallam) said, *"I used to prohibit you from visiting the graves. Listen! You may now visit the graves."*

The second is where an action is not proven to be a continual practise, and proof for its contrary is found, like the lifting of the hands in *Takbeer* when going into Ruku and getting up therefrom. There is no proof advocating that this was a continual practise, but there is proof that this practise was abandoned.

The definition of Sunnat (-e-Rasool)

The (worthy of following) statements, actions and discourses of Nabi (sallallahu alaihi wasallam) are known as Sunnat. As mentioned earlier, Sunnat is the way which is worthy (possible) of being followed. Accordingly, the statements and practises of Nabi (sallallahu alaihi wasallam) should be apparent. Those actions which Nabi (sallallahu alaihi wasallam) could not carry out in the presence of anyone or where he (sallallahu alayhi wasallam) did not get the opportunity or occasion to practise upon, are expressly mentioned by him i.e. Nabi (sallallahu alaihi wasallam) mentions the validity or virtue of such actions. Those actions which he practised upon also, are (verbally) explained by him. Similarly, if Nabi (sallallahu alaihi wasallam) witnessed any action taking place (by his companions), and he remained silent, is tacit consent and permission that such an action is allowed and permitted.

This will apply to all those actions, statements and discourses of Nabi (sallallahu alaihi wasallam) which are possible of being followed. As for those statements and practises of Nabi (sallallahu alaihi wasallam) which, apparently, are not such that can be followed, or they are such that they are not meant to be followed. For example,

Nabi (sallallahu alaihi wasallam) involuntary conditions and circumstances. These are reported by Nabi (sallallahu alaihi wasallam) himself or the Sahaabah (radhiallahu anhum). Such things will be regarded as Sunnat in this manner that to relate these matters are Mustahab and meritorious.

Nabi's (sallallahu alaihi wasallam) prophecies of the future and the conditions of Jannat and Jahannum. These will be regarded as Sunnat in this way that it is necessary to bring Imaan in this and to report them are Mustahab and meritorious.

Those who do not refer to such things as being part of the Sunnat do so with this intention that these are such matters which are not possible of following, but they are included as being part of the Hadith. Similarly, those matters which are special and exclusive to Nabi (sallallahu alaihi wasallam), are also not included as part of the Sunnat, since they cannot be followed by others, like marrying more than four wives, making Nikah without Mehr, etc. However, they are part of the Hadith.

Hadith

The term *Hadith* (which literally means 'new') is actually the antonym of 'old' (*qadeem*). Its connotation is with speech. This original meaning of the word 'Hadith' is kept in the fore when defining it according to the Shariah. The Qur`aan Majeed is the Speech of Allaah Ta`ala, which is part of His *Qadeem (ever-existent)* Qualities. Hence the speech, actions and discourses of Nabi (sallallahu alaihi wasallam) are 'Hadith'.

According to the Shariah, the term 'Hadith' has two connotations:

The first connotation of 'Hadith'

The account of Nabi (sallallahu alaihi wasallam), his speech, actions and discourses, are known as Hadith. In other words, this is known as the text of Hadith.

The difference between 'Hadith' and 'Sunnat', with regard to this first connotation

Following and imitation is not included in the definition of 'Hadith', whereas this is part of the meaning of 'Sunnat'. Hence, whereas the literal definition of 'Hadith' and 'Sunnat' may be the same, the difference lies in the practical application of the two. Those statements, practises and discourses of Nabi (sallallahu alaihi wasallam) which are possible to follow are regarded as Sunnat, and these are also included as part of the Hadith, *together* with those statements, practises and discourses which are not possible of following. In essence, 'Hadith' is general, which includes Sunnat and non-Sunnat, whereas Sunnat is specific. It is as though, every Sunnat is part of the Hadith, whilst every Hadith is not part of the Sunnat.

The second connotation of 'Hadith'

The combination of the text and chain of narrators are also classified as 'Hadith'. In view of this connotation, the definition of 'Hadith' would be, *"It is that speech, action and discourse which is attributed to Nabi (sallallahu alaihi wasallam)."* If the chain of narrators is strong, then that speech or action of Nabi (sallallahu alaihi wasallam) would be regarded as strong, and if the chain of narrators is weak, then the speech or action of Nabi (sallallahu alaihi wasallam) would be regarded likewise. This meaning would include the classification of strong and weak Ahaadith (plural of Hadith).

This, however, does not mean that there is doubt in every Hadith, and that there is uncertainty as to its acceptance or not. In fact, the Ulama have properly classified and categorised the Ahaadith subject to certain principles and regulations, which discern the acceptable Ahaadith from the unacceptable. The treasury and multitudes of Ahaadith which have been

compiled, are done so under this second connotation of the word 'Hadith'. This is the means whereby the Ahaadith of Sunnat and 'Hadith' according to the former connotation are discerned.

The verification of the Sunnat is effected by the second connotation of 'Hadith'

Some modernists have specified the Sunnat as a proof and tarnished the honour and status of the Hadith (according to its second connotation) by averring that there is a possibility of them (Ahaadith) being either authentic, weak or concocted. This is a grave error of these claimants, because on the one hand we see this group of people adhering to a set way, claiming this to be the Sunnat of the Rasool (sallallahu alayhi wasallam). We now need to ascertain whether they are true in their claim, because proof and evidence is required, since there is a possibility that the Sunnat of the Sahaabah (radhiallahu anhum), Tabieen (rahmatullahi alaihim) or the Ijtihaad of some Mujtahid is included here (in what they claim to be Sunnat-e-Rasool). Besides the Hadith (according to the second connotation), there can be no other proof for their claim. They need to prove to us, through a reliable chain of narrators that their actions are in conformity to the speech or practises of Nabi (sallallahu alaihi wasallam).

Similarly, some have averred that 'Hadith' according to this second connotation is known as the history of the Sunnat. However, this is a deficient definition, because history in itself, does not constitute any proof, in that, to act contrary to it is impermissible. Contrary to a Hadith (according to the second connotation), where the narrators are all reliable, then such a narration would be regarded as a proof, and there is no consent of the Shariah to act contrary to this.

Other research regarding Sunnat and Hadith

1. Since Sunnat-e-Rasool (sallallahu alayhi wasallam) and Hadith according to the latter connotation, have the same meaning, some have interpreted Sunnat-e-Rasool as Hadith. They have interpreted the narrations of the Sahaabah (radhiallahu anhum) and Tabieen (rahmatullahi alaihim) as Sunnat. It is for this reason that when

Abdur Rahmaan Bin Mahdi (rahmatullahi alaihi) was asked regarding Imaam Sufyaan Thauri, Imaam Auzaa`i and Imaam Maalik (rahmatullahi alaihim), he replied that Sufyaan Thauri was Imaam of Hadith, and not of Sunnat. Auzaa`i was Imaam of Sunnat and not Hadith and Imaam Maalik (rahmatullahi alaihi) was Imaam of both Sunnat and Hadith.

2. Some have considered Sunnat to be a practical demonstration and Hadith to be theoretical. Therefore, they regard the actions of Nabi (sallallahu alaihi wasallam) to be the Sunnat and his (sallallahu alayhi wasallam)'s speech to be Hadith.

3. Some have considered the second connotation of Hadith and interpreted it in accordance to the actual narration. They have interpreted it in this way that that speech and actions of Nabi (sallallahu alaihi wasallam) which emanates from him are regarded as Sunnat, and its being narrated is the Hadith.

Hadith being a source of proof

1. *"That which the Prophet brings to you, hold on fast to it, and that which he prohibits you, abstain therefrom. Fear Allaah. Indeed Allaah is severe in punishment."* [Surah Hashar, Aayat 7]

Since the statements *"that which the Prophet brings to you"* and *"that which he prohibits you"* are general, implies that every injunction and prohibition of Nabi (sallallahu alaihi wasallam) is included here. This would apply regardless of whether a clear injunction to the effect of Nabi (sallallahu alaihi wasallam)'s injunction or prohibition is included in the Qur`aan Majeed, or whether it is not mentioned in the Qur`aan Majeed at all, that is *Wahi Ghair Matloo`* or whether Nabi (sallallahu alaihi wasallam) made Ijtihaad based on the opinions of the Sahaabah (radhiallahu anhum) and this was not rejected or censured by Allah.

2. *"Indeed there is for you an excellent example in the Rasool of Allaah, for those who desire Allaah and the Last Day…"* [Surah Ahzaab, Aayat 21]

The literal definition of the word, *Uswatun Hasanatun*, would be *an object to be imitated/ followed.* Therefore this Aayat indicates that Nabi (sallallahu alaihi wasallam) is to be followed and obeyed. Another point is that the word *Uswa* is used in Arabic terminology for a good and desirous thing. It is not used for an evil or bad thing. Hence, by Allaah Ta`ala's coupling the word *Hasana* with *Uswa* indicates emphasis of the perfect example to be found in the life of Nabi (sallallahu alaihi wasallam).

3. *"O you who believe! Obey Allaah and obey The Rasool and the learned amongst you. If you dispute in any matter, then refer to Allaah and The Rasool, if you believe in Allaah and the Last Day…"*[Surah Nisaa, Aayat 59]

In this Aayat, Allaah Ta`ala does not say *"Obey Allaah and The Rasool",* He says, *"Obey Allaah and obey The Rasool",* that is, together with the instruction of obedience to Allaah Ta`ala, the distinct instruction to *obey The Rasool* is coupled therewith. In other words, there is a separate and distinct instruction to obey the Rasool as well as to obey Allaah Ta`ala.

The reason for this is that there is a difference in the two obediences. The reality of obedience to Allaah Ta`ala comprises accepting and complying to the divine injunctions, whereas obedience to The Rasool comprises of not merely accepting and complying to the prophetic injunctions, it also includes total compliance and imitation of the actions, character and traits of the Prophet (sallallahu alayhi wasallam), as far as is possible. This is also what is known as *Ittibaa-e-Sunnat (following the Sunnat).* This is the one way of acquiring and attaining the Love and proximity of Allaah Ta`ala.

In this regard, Allaah Ta`ala says, *"Say (O Nabi - sallallahu alaihi wasallam!) If you love Allaah, then follow me, Allaah will love you and He will forgive your sins."* [Surah Aale Imraan, Aayat, 31]

Obedience to Rasulullaah (sallallahu alayhi wasallam) is in reality obedience to Allaah Ta`ala. *"He who obeys The Rasool has indeed obeyed Allaah."*

This is so because, *"We have not sent any prophet, except that they be obeyed, with the Order of Allaah."* [Surah Nisaa, Aayat 64]

The continuity of Ilm-e-Hadith

On the one hand the Qur`aan Majeed has outlined the necessary mandate of Nabi (sallallahu alaihi wasallam) as being Ta`leem (teaching) and Tazkiyah (purification of the soul). *"It is He Who has sent to the unlettered, a Prophet from amongst them to recite His Verses to them, to purify them and to teach them The Kitaab and Wisdom."* [Surah Jumuah, Aayat 2]

And on the other hand, the Qur`aan Majeed instructs the Ummat as follows, *"So why is there not from amongst every group amongst them a sect who will learn about the Deen so that they may warn their nation when they return to them, so that they may be aware."* [Surah Tawbah, Aayat 122]

It is Fardh for every individual to learn and acquire that amount of Deeni education which is necessary, as it is mentioned in the Hadith, *"Seeking of (Deeni) knowledge is Fardh upon every Muslim."*

The Qur`aan Majeed makes conspicuous the status of Nabi (sallallahu alaihi wasallam) as being the Teacher of the Ummat and that every nation or tribe must have a group of its people learn and inculcate the Deeni teachings. They should acquire this Deeni teachings from Nabi (sallallahu alaihi wasallam) and remain with him, learn from him and inculcate the same into their lives, so that they may return to their respective people and impart what they have acquired from the Spring of Nubuwwat.

It is established from this Aayat by virtue of *Dalaalatun Nass* (Explicit indication of Qur`aanic text) that this succession of Ta`leem and Tazkiyah must continue in an unbroken sequence until the Day of Qiyaamah. In every era there must be a group of persons who will learn the teachings of Nubuwwat and convey the message on to others.

Although the word *'unlettered'* in the Aayat refers to the inhabitants of Makkah Mukarramah, there is no contradiction, since most of the

inhabitants at that time were unlettered and unlearned people. So since, the nation to whom Nabi (sallallahu alaihi wasallam) was sent were such that they did not know how to read or write, his teachings were conveyed to them by way of recitation and practical example. Those who learnt from him (sallallahu alayhi wasallam), also relayed the message onto others by virtue of this same method.

Kitaabs being compiled and Deeni knowledge preserved therein is one method of safeguarding this knowledge for the coming generations, even though there may not be any Aalim or practical example thereof. Nevertheless, the compilation of Kitaabs is not the only way of preserving and conveying the message to the coming generations. To bring the injunctions into practise and to be steadfast in all these Shar`i laws is a very strong and effective means of conveying the message.

This is verified in the Qur`aan Majeed, and it is not contrary to the intellect or experience. This is especially the case since learning and teaching Deeni knowledge is not a voluntary and optional thing. It is an obligatory injunction (*Fardh-e-*Kifaayah) upon all generations.

Notwithstanding this, some Sahaabah (radhiallahu anhum) were literate and they would write down and record the teachings learnt from Nabi (sallallahu alaihi wasallam). Nabi (sallallahu alaihi wasallam) would grant full support for this. For example, Hadhrat Abdullah Bin Amar Bin `Aas (radhiallahu anhuma) compiled a voluminous work during the lifetime of Nabi (sallallahu alaihi wasallam), which he named *Saadiqah*.

A person by the name of *Abu Shah Yemeni* desired to have one of Nabi (sallallahu alaihi wasallam)'s Khutbahs, and Nabi (sallallahu alaihi wasallam) instructed the Sahaabah (radhiallahu anhum) to write it down for him.

Hadhrat Abu Bakr Bin Hazam (radhiallahu anhu), the governor of Yemen, had the laws of Zakaat written down on two pages, these are but a few of many examples.

As literacy increased amongst the Muslims, the compilation of Ahaadith became common and started spreading. During the era of the Tabieen, Hadhrat Imaam Zuhri (rahmatullahi alaihi) compiled a detailed and voluminous work on the Ahaadith of Nabi (sallallahu alaihi wasallam) and the narrations of the Sahaabah (radhiallahu anhum) on the order of Hadhrat Umar Ibn Abdil Azeez (rahmatullahi alaihi).

There was also a treasure of Ahaadith recorded and in the possession of Imaam Abu Hanifah (rahmatullahi alaihi).

The compilation of Kitaabs of Imaam Muhammad and Abu Yusuf (rahmatullahi alaihima) are also quite famous. And then during the era of the Tabè Tabieen, even more Kitaabs came into existence and were compiled, like Muwatta Imaam Maalik, Muwatta Imaam Muhammad, Abdullah Bin Mubaarak, etc., etc.

The types of Ahaadith

The speech, actions and discourses of Nabi (sallallahu alaihi wasallam) are known as Hadith.

If the Sahaabah (radhiallahu anhum) saw Nabi (sallallahu alaihi wasallam) doing anything or heard anything emerge from his blessed lips, then for them this was certain and absolute proof, since for them, in this, was absolutely no doubt of it being Hadith.

When the Sahaabah (radhiallahu anhum) in turn narrated to others what they heard or saw Nabi (sallallahu alaihi wasallam) doing, then this was their relating of the Hadith. And then, when the Tabieen in turn, narrated to others that they heard or saw a certain Sahaabi (radhiallahu anhu) executing a certain act, then this is a narration of a Tabi`ee (rahmatullahi alaihi) from the Sahaabi (radhiallahu anhu).

Similarly, if a Tabè Tabi`ee or anyone thereafter narrates from those prior to them, then this is the *Khabar* (narration/information) of that respective narrator.

The effect and blessing of the companionship and presence of Nabi (sallallahu alaihi wasallam) was such that every Sahaabi (radhiallahu anhu) was just and reliable. There was possibility of their committing sins occasionally, but not of any of them being continuously involved in sin. It is for this reason that if any of them narrated a Hadith from Rasulullaah (sallallahu alayhi wasallam) to one another or to the Tabieen, then we have absolute certainty that their narration is true and reliable.

There are various types of narrations. For example, if some particular matter is being reported by so many persons and narrators, that the listener is certain of it being true and there is no possibility to label this entire group of narrators as liars or that they are in error. Such a narration is known as ***Khabar-e-Mutawaatir***. Such a narration, if it is reported through numerous eras, nevertheless, the condition for it being *mutawaatir* is that in every era, the narrators thereof must be so many that there remains no doubt as to its authenticity.

If however, the narrators of a Hadith are not many but just a few, where there can be a doubt created that they could all be mistaken or even lying, then such a narration is known as ***Khabar-e-Waahid***. If a narration was classified as *Mutawaatir* through a few eras and then in any one or more eras there were only a few narrators, where there was no compulsion to accept all their authenticities, then such a narration will no longer remain as *Mutawaatir*. If however, the few narrators are all of such a category that they are reliable and trustable, that they cannot be discounted as liars, or there may be a small possibility of some of them misunderstanding or forgetting, then too, such a narration should not be taken lightly and discounted altogether.

In summary, with regard to the number of narrators, Ahaadith are classified into two categories:

(1). *Mutawaatir*

(2). *Khabar-e-Waahid*

Hadith-e-Mutawaatir

Proof: There are various instances in the Qur`aan Majeed where Allaah Ta`ala brings the attention to the fact that by *mutawaatir*, a knowledge of certainty is achieved. For example,

1. *"Did you not see how your Rabb dealt with the people of the elephants?"*

2. *"Did you not see how you Rabb dealt with (the nation of) Aad?"*

Since the information of these incidents had spread amongst the Arabs by *Tawaatur*, hence they are well aware of its occurrence, such that it is spoken of as though they have actually seen it.

The types of Mutawaatir

1. *Mutawaatir Isnaad* – This is where a certain Hadith was reported in every era to such a large extent that it is impossible to claim that they were all lying. There are many such Ahaadith, for example, *"He who speaks a lie against me (i.e. attributing something falsely against Nabi - sallallahu alaihi wasallam), is preparing his place in The Fire."* This Hadith was reported by 62 Sahaabah (radhiallahu anhum). This number (of narrators) had increased in all the subsequent eras.

2. *Mutawaatir-e-Tabqa* – This is such a Hadith, where in every place, an entire sector of the Muslim community learns it, memorises it and teaches it to the subsequent generation. This sequence has continued right from the time of Nabi (sallallahu alaihi wasallam) until the present day. The continuity of the Qur`aan Majeed is an example of this. Wahi, whether it be *Kitaabi* or *Ghair Kitaabi*, all of it emanates from the blessed lips of Nabi (sallallahu alaihi wasallam).

3. *Mutawaatir-e-Amal* and *Mutawaatir-e-Tawaaruth* – This is where a certain practice has been adhered to from the time of

Nabi (sallallahu alaihi wasallam) until the present day, by such a large group where it cannot be said that they are all liars or in error. For example, the use of the *Miswaak*, the five daily Salaat, the fasts of Ramadhaan, Hajj and Umrah, Zakaat, the Rakaats of the Fardh Salaat and its comprising of Qiyaam, Ruku, Sajdah, etc.

4. *Mutawaatir Qadr-e-Mustarak* – This is where there are numerous narrations and in each narration there is a different story, but each of these stories comprise one subject. For example, there are numerous incidents reported regarding the various miraculous acts of Nabi (sallallahu alaihi wasallam) and theses have reached the level of *Tawaatur*. Even though in each narration a different miracle of Nabi (sallallahu alaihi wasallam) is being reported, nevertheless, all of them have in common the fact that miracles had issued forth from the hands of Nabi (sallallahu alaihi wasallam) and this fact is corroborated by *Tawaatur*.

Khabar-e-Waahid

It is that *Khabar* or Hadith, where the narrators in all the eras or some of the eras or in any one era are less than those of *Tawaatur,* whether it be one, two three or more. If the narrator/s are reliable and honest persons, then the listener should entertain an opinion (hold a strong presumption) of reliability for that narration. It is for this reason that *Khabar-e-Waahid* is known as *Daleel Zanni* (i.e. there is an overwhelming inclination in the mind to accept the narration). When a *Khabar-e-Waahid* can be certified as being positive, then it can be used as a certain and strong proof.

The use of the word 'Zan' (presumption)

The word *'Zan'* is used in three contexts in the Qur`aan Majeed,

1. Certainty – *"And indeed that (Salaat) is heavy, except upon the fearful ones, those who are certain of meeting their Rabb, and that they will be returned to Him."* [Surah Baqara, Aayat 46]

2. A strong (overwhelming) presumption – *"Why did the believing men and women not have a strong presumption of good amongst themselves when they heard it."* [Surah Noor, Aayat 12]

3. Useless and vain suspicions – *"O you who believe, save yourselves from much (stray) thoughts/suspicions, indeed some suspicions are sinful."* [Surah Hujaraat, Aayat 12]

   "And they have not any knowledge (regarding it), they follow nothing except stray thoughts, and indeed stray thoughts do not benefit the truth in the least bit."

Note: Those stray thoughts and suspicions which have no proof to support them, are rejected and the Shariah grants absolutely no consent to harbour and follow such thoughts. However, to follow a strong presumption is encouraged. When the Fuqahaa say that a certain Hadith is *Mufeeduz Zann* then they are implying that it is not a useless and unsubstantiated narration, in fact, there is a strong presumption that this narration is true and authentic.

Through what proof is there a strong presumption that a *Khabar-e-Waahid* is a Hadith

It has been mentioned above that if the narrators are established to be pious, honest and reliable, and whether they are one or two, or three or four, then there will be a strong presumption that their narration is true and reliable. This will even be so if from an information point of view the narration may be true or false. The reliability and integrity of the narrators is a proof that the narration is almost certainly true. That is, their integrity lends support to a strong presumption that the narration is true.

Similarly, when someone reports or narrates that Nabi (sallallahu alaihi wasallam) said such and such, then the Muhadditheen inspect the proof of its authenticity.

This proof is sought from two angles,

One is regarding the integrity of the narrator and the second is regarding the subject matter of the narration itself.

Regarding the integrity of the narrator

Prior to the Muhadditheen accepting a Hadith from any narrator, there is a precondition that he embodies the following qualities:

a. He must be **truthful** – throughout his life he must never have spoken any lie regarding any Hadith of Nabi (sallallahu alaihi wasallam).

b. He must be of **sound mind** – i.e. he must not be stupid or dense in the mind that he does not err in understanding the Hadith.

c. He must have a **good memory** – he must not have excessive forgetfulness, doubts and misgivings.

d. He must be **reliable and pious** – he must not be a *faasiq (sinner), faajir (open-sinner)* or immoral person.

e. He must be a **cautious and prudent person** – in narrating and relating any Hadith he must not have a careless and easygoing attitude.

f. He must be **well-known** and not a non-entity – i.e. insofar as his knowledge, piety, reliability and memory is concerned.

Regarding the subject matter of the Hadith

The following factors are taken into consideration with regard to the subject matter of the narration:

a. It must not be contrary to any Qur`aanic text.

b. It must not be contrary to any *Sunnat-e-Mutawaatirah*.

c. It must not be contrary to any *Ijma-e-Qat`i* (absolute consensus).

d. It must not be impossible according to rational reasoning.

e. It must not be contrary to the general ruling of the Shariah and the accepted decrees.

f. It should also not be such an issue being discussed in the narration which is binding upon all *Mukallifeen* (sane, adult Muslims), and where there can be no reason for not having knowledge thereof, whereas the narrators of this *Khabar* are very few.

The crux of the matter is that when all these conditions are met and fulfilled, then we are certain that we have a proper and reliable source of proof with us, and as such this Hadith would be necessary to accept and practise upon.

***Khabar-e-Waahid* being a proof in the Shariah**

1. *"Oh you who believe, if a faasiq (sinner/transgressor) comes to you with any news/information, then verify it."* [Surah Hujaraat, Aayat 6]

From this Aayat we gauge that if a reliable and honest person brings any news/information, then it should be accepted. We also understand this much that if a sinner brings any news, then this must not be discounted in toto, but rather it should be verified and investigated. If after, investigation, it appears to be true, then it can be accepted. If a *Khabar-e-Waahid* was not worthy of consideration, then there would be an instruction to reject it instead of an investigation.

2. *"Why is there not from every nation a group that learns and understands the Deen so that they may warn their nation when they return to them so that they may be saved."*[Surah Tawbah, Aayat 122]

The word *'Taa`ifah'* refers to a part of a whole. It could apply to one person upto an entire group. Hence it is ascertained from this Aayat that it is Fardh upon every nation that if one person or a group from amongst them, teaches them the Deen, then they must accept it.

3. *"Why do they not bring forth four witnesses? Thus if they did not bring any witnesses, then in the Sight of Allaah, they are liars."* [Surah Noor, Aayat 18]

In order to establish an accusation of adultery, four witnesses are necessary. It is as though the testification of four persons is a *Khabar-e-Waahid*, and that their word cannot be refuted as lies or that they are all under a misconception.

The types of *Khabar-e-Waahid*

We have mentioned before that if the narrators of a *Khabar* do not constitute a large group in every era, then that is termed as a *Khabar-e-Waahid.* Based on the qualities which are to be found in the narrators, *Khabar-e-Waahid* is divided into two types,

1. *Hadith-e-Maqbool,* and 2. *Hadith-e-Ghair Maqbool*

Hadith-e-Maqbool is further divided into three types,

Hadith-e-Saheeh

According to the classification of the Muhadditheen, a *Hadith-e-Saheeh* is that Hadith where the narrators in every era are mentioned, and that every one of them is *Aadil* (i.e. Muslim, pious, and one who abstains from vain and useless talk), with excellent memory, he must not have any latent fault and the narration must not be such that it is contrary to an established authentic Hadith.

Hadith-e-Hasan

This type of Hadith also conforms to all the conditions listed above for a *Hadith-e-Saheeh*, except that the memory of its narrators are comparatively weaker.

Hadith-e-Mursal

A *Mursal* Hadith from the best of the eras, Sahaabah, Tabieen and Tabè Tabieen, are also accepted. This is that Hadith of Nabi (sallallahu alaihi wasallam) which a Sahaabi, Tabi`ee or Tabè Tabi`ee narrates, without mentioning his source when narrating. That is, he quotes the Hadith as if he heard it directly, by saying, *"Nabi (sallallahu alaihi wasallam) said, '…'"*

Hadith-e-Ghair Maqbool is of two types,

Hadith-e-Maudoo`

This is that Hadith which someone concocted and attributed to Nabi (sallallahu alaihi wasallam).

Hadith-e-Da`eef

This is that Hadith which does not even conform to the conditions of a *Hadith-e-Hasan*.

Important notes

Those reasons which render a narration apparently weak *(Da`eef)*, may also, at times, reach a status of authenticity. A certain Hadith which in relation to its chain of narrators (*Sanad*), may be classified as weak, but in other respects it reaches the level of *saheeh*, for example,

(i). If a Mujtahid uses any Hadith as a proof for substantiating a ruling formulated by him, then his making that Hadith a proof renders that Hadith as *saheeh*. Even though a Mujtahid may not mention the reasons for the Hadith being *saheeh*, but if he is truly a Mujtahid, then he would never cite

a weak Hadith as a proof. In fact, it would be such that according to the research of that Mujtahid, the Hadith is not weak. It is stated by Ibn Humaam (rahmatullahi alaihi), *"If a Mujtahid cites as a proof any Hadith, then according to him it is saheeh."*

*"Abul Hasan Bin Hasaar states in 'Taqreebul Madaarik Ala Muwatta Maalik', 'A Faqeeh would know the authenticity of any Hadith, as long as there is no liar amongst the narrators (of a Hadith), he (the Faqeeh) would then verify the Hadith with an Aayat of the Qur`aan Majeed, or some principle of the Shariah. Based upon this he would accept it and practise thereupon."*[A`laa-us-Sunan, page 38]

(ii). When the Ulama have accepted (authenticated) a Hadith, either by speech or action, then such a narration would be deemed as *Mutawaatir. "Ibn Abdul Barr states in 'Istizkaar', from Imaam Tirmidhi (rahmatullahi alaihi) that Imaam Bukhari (rahmatullahi alaihi) had authenticated the Hadith, 'The ocean, its water is pure'. Even though, the other Muhadditheen do not regard as authentic this chain of narrators (of this Hadith), but in my opinion this Hadith is authentic, because the Ulama have indicated its acceptance."*

(iii). When a weak Hadith is related from various chains, then owing to this unity, it will attain the level of *saheeh* and constitute a proof. It is stated on page 49, in *A`laa-us-Sunan, "If a weak Hadith has numerous chains (of narrators), even one other chain, then owing to this commonness, it reaches the level of Hasan, and can be cited a s proof."*

Nevertheless, this principle can only be applied to that weak Hadith where the reason for weakness is the memory of the narrator/s, but he is truthful and pious.

(iv). If there is a difference of opinion regarding the narrators or the Hadith, where some aver *Tahseen* (i.e. they classify it as *saheeh*), and others vouch for its being weak. In such a case, this Hadith would be classified as *Hasan. "If there is a difference of opinion in a Hadith. Some state it to be Hasan or saheeh, whilst others say it is weak. This Hadith will (then) be (classified as) Hasan. Similarly if there is a difference of opinion*

regarding a narrator, where some vouch for his reliability and others against. (In such a case) This Hadith will be classified as Hasan."

(v). Authentic Ahaadith are not restricted to *Bukhari* and *Muslim Shareef*. There are many other Kitaabs of Ahaadith. Imaams Bukhari and Muslim (rahmatullahi alaihima) have not compiled all the authentic Ahaadith. In fact, they have only selected a limited number of authentic Ahaadith in their respective compilations.

Imaam Nawawi (rahmatullahi alaihi) reports, *"It has been reported from Bukhari, that he said, 'I memorised 100 000 Saheeh Hadith and 200 000 non-saheeh Ahaadith."* [Taujee-un Nadhar, page 93]

"It has been reported from Bukhari that he said, 'I have not compiled in my Kitaab, Al-Jaam`i' except that which are saheeh and I have omitted quite a few other Saheeh (Ahaadith), for fear that my Kitaab would become too voluminous." [Taujee-un Nadhar, page 91]

"It has been reported that once when Imaam Muslim (rahmatullahi alaihi) was reprimanded on compiling a Kitaab with only Saheeh Ahaadith, that this is an opening for the Ahle Bid`ah in that if any Hadith is cited in refutation of their actions, then they will argue that it is not in this Kitaab (Muslim Shareef), hence it is not saheeh. Imaam Muslim (rahmatullahi alaihi) replied, 'When I compiled this Kitaab I said that it contains saheeh Ahaadith. I did not say that whatever is not contained here is not saheeh.'"

"Imaam Muslim (rahmatullahi alaihi) mentioned in his Saheeh, 'It is not such that everything that is Saheeh according to me, is included in this Kitaab.'" [Fathul Mulhim, page 44, vol.2]

(vi). The four Imaams of Fiqh, Imaams Abu Hanifah, Shafee, Ahmad Ibn Hambal and Maalik (rahmatullahi alaihim) were great Faqeehs and all of them were also counted amongst the illustrious Muhadditheen. These four were there a long time **before** Imaam Bukhari and Muslim (rahmatullahi alaihima). They also had by them a treasure of Ahaadith, hence the *Fiqhah* of all of them were totally independent of the Kitaabs of Imaam Bukhari and Muslim (rahmatullahi alaihima).

An important clarification: How can there be hundreds of thousands of Ahaadith?

The statement of Imaam Bukhari (rahmatullahi alaihi) that he had memorised 100 000 *saheeh* Ahaadith, and his Kitaab *'Al-Jamius Saheeh'* only contains 9082 Ahaadith, including all sorts of narrations and repeats, and the total number of Ahaadith reported from Nabi (sallallahu alaihi wasallam) only go in the thousands, what then is the status of all the other Ahaadith?

The answer lies in the terminology of the Muhadditheen. When one thing is heard from ten different sources, for example, if Zaid says something to ten different persons and these ten persons relate this to you, then according to the Muhadditheen, you have heard ten things. This is so because the subject matter and the ten different sources are all listed down, resulting in ten different narrations. Ahaadith are also classified in this manner, where one Hadith may have been related via ten chains of narrators, so in Hadith terminology, this is counted as ten Ahaadith.

Besides this, many Muhadditheen also regard the speech practises and conditions of the Sahaabah (radhiallahu anhum) as Hadith. Hence, according to them, besides the Ahaadith-e-Nabawi, the speech, actions and conditions of the Sahaabah (radhiallahu anhum) are also included amongst Ahaadith. Since there was a great number of Sahaabah (radhiallahu anhum), their speech and conditions are also many.

In this way, the number of Ahaadith have reached hundreds or thousands.

CHAPTER FOUR

IJMA-E-UMMAT (CONSENSUS OF THE UMMAT)

Lexicographic definition

The literal meaning of *Ijma* is to be unanimous/unified. According to the literal definition, to be unanimous/unified and *Ijma* is the same thing.

Shar`i meaning

In the Shariah, the meaning of *Ijma* is as follows:
"Ijma is the unanimity of all the Fuqahaa Mujtahiddeen of one era on a single Shar`i ruling, after the demise of Nabi (sallallahu alaihi wasallam)."

Ijma being a proof

Ijma constituting a valid Shar`i proof, is also corroborated by the Qur`aan Majeed and the Hadith.

1. *"He who opposes the Rasool after Guidance was made apparent to him, and he treads the path other than that of the believers, (then) We will leave him to do as he pleases (in this world), and (in the Aakhirah) We will fling him into Jahannum, an evil abode."* [Surah Nisaa, Aayat 115]

It has been deduced from this Aayat, that the same fate which awaits one in the Aakhirah, who opposes Nabi (sallallahu alaihi wasallam), will befall those who tread the path other than that of the agreed upon path of the believers. From this we understand that to oppose the agreed upon decisions (*Ijma*) of the Ummat is a grave sin.

2. *"And similarly, We have made you a moderate Ummat."* [Surah Baqara, Aayat 243]

From this we understand that the unanimous speech and practises of this Ummat, are all, in the Sight of Allaah Ta`ala, correct and on Haqq. If the

entire Ummat were united on an incorrect matter, then there would be no reason for Allaah Ta`ala saying that this Ummat is on a moderate path.

3. It is stated in a Hadith, that Nabi (sallallahu alaihi wasallam) said,

"Indeed Allah Ta`ala will not unite this Ummat", or he said, *"The Ummat of Muhammad, on deviation. The Hand (assistance) of Allaah is on the Jamaat and he who slips away (from the Jamaat) slips into Jahannum."*

4. Imaam Sha`bi (rahmatullahi alaihi) states, *"Hadhrat Umar (radhiallahu anhu) wrote to (Qaadhi) Shuraih that he decree according to what is in the Kitaab (Qur`aan Majeed). 'If any matter comes before you which is not in the Qur`aan Majeed, then you should decree according to the practise of Rasulullaah (sallallahu alayhi wasallam). If any matter comes before you which is neither in the Qur`aan Majeed nor the Sunnah of Rasulullaah (sallallahu alayhi wasallam), then look at what the people (Ulama) have united upon. If any matter presents itself to you regarding which no one has spoke about before, then decree what is best according to you from the two choices. You can choose either to go ahead (with whatever decision you arrive at) or you may choose to hold back (and consult with the learned ones prior to making a decision). I would prefer for you, in such matters to opt for the latter."*

Note

Ijma being a Shar`i proof does not mean that those who reach the consensus are such people who, *Nauthubillaah*, have reached their decision by means other than the Qur`aan Majeed and Sunnat. It cannever be a matter where they separate themselves from the Qur`aan Majeed and the Sunnat and make whatever they please Halaal or Haraam. *Ijma* is considered valid when it is sourced from some Qur`aanic Aayat, Sunnat-e-Nabawi or *Qiyaas* which has been based on principles extracted from the

Qur`aan Majeed and Sunnat. The object is that every *Ijma* must be based or sourced from some valid Shar`i source, which is termed *Sanad-e-Ijma*.

Question: Since every *Ijma* is based upon the Qur`aan Majeed, Sunnat or *Qiyaas*, what then is the benefit (or speciality) of it?

Answer: There are two benefits of *Ijma*:

One is that if any ruling based on Qur`aan Majeed, Sunnat or *Qiyaas* is *Zanni* (not absolute), then *Ijma* will render such a ruling absolute and binding, whereafter no Faqeeh will have any scope to differ therewith. And if such a ruling was absolute before, then *Ijma* will add on and strengthen its absoluteness.

The second benefit of *Ijma* is that whatever proof it is based on, the forthcoming Ummat will not have to delve into or contemplate over this proof. It will now be sufficient for them to rely on this *Ijma* and proffer that this ruling was reached by consensus of the Mujtahiddeen of a certain era. Upon what proof have they based this consensus of theirs? There is no need for the forthcoming Ummat to know this.

A few examples of *Sanad-e-Ijma*

1. An *Ijma* on a famous Fiqhi mas`alah is the *Hurmat* (impermissibility) of marriage to one's paternal and maternal grandmother and granddaughter. Those who reached this consensus did so based upon the Aayat, *"Haraam upon you (for marriage) is your mothers and daughters"* [Surah Nisaa, 22]. Hence this Aayat becomes the *Sanad-e-Ijma* for this mas`alah. Although this Fiqhi ruling is deduced from this Aayat, because the term *"Mothers"*, includes grandmothers and the term *"Daughters"* includes granddaughters, nevertheless, this ruling is not absolute and fully conclusive, because the term *"mothers"* could be taken to mean only one's real mother and not maternal and paternal grandmothers. Similarly, the term *"daughters"* could be taken to mean only one's real daughters and not granddaughters. Therefore, based upon this possibility and ambiguity, a Mujtahid could aver that marriage to grandmothers and granddaughters is not haraam. Now since there is

consensus (*Ijma*) on this ruling, it has become absolute and binding, whereafter no further discussion could be entertained regarding this matter.

2. An example of *Ijma* which has been sourced from the Sunnat is the mas`alah where it is not permissible to sell an edible item, prior to the seller having taken ownership of the goods first. The *Sanad-e-Ijma* for this mas`alah is the statement of Nabi (sallallahu alaihi wasallam), *"Whosoever buys edible items, cannot sell it until he has taken ownership thereof."*

This ruling is clear and apparent from the Hadith, but this Hadith is a *Khabar-e-Waahid*. Therefore, based on this (that the Hadith is a *Khabar-e-Waahid*), there remains a doubt in this ruling and at the most it is a *Zanni* ruling and not absolute.

But now that there is consensus (*Ijma*) on this mas`alah, this *zanniyat (possible doubt)* is removed and the ruling becomes absolute.

3. An example of *Ijma* from a *Qiyaas* can be found in this mas`alah where usury is also found in rice. That is, if rice is exchanged for rice, then credit is haraam and so too is disparity in quantities. A hand-to-hand exchange is necessary for the validity of such a sale and it is imperative that the quantities (weights) of both the rice which is to be exchanged is equal regardless of the quality and type of the rice. If there is credit in this sale or disparity in the quantity on either side, then it will be regarded as usury, hence haraam.

In this mas`alah, the *Sanad-e-Ijma* is *Qiyaas*. The explanation of this is as follows, Nabi (sallallahu alaihi wasallam) had mentioned regarding six things, (gold, silver, wheat, barley, dates and salt), that if any of these are exchanged for the same type, then there should be no credit or disparity in quantities, otherwise it will be considered as usury. These six items are clearly mentioned in the Hadith, whereas no mention is made of rice. Those who have reached an *Ijma* on this mas`alah have made *Qiyaas* based on these six items and said that rice is also included in this ruling.

Had there not been *Ijma* of all the Mujtahiddeen on this ruling, then there would always remain the doubt as to the absolute effectiveness of this

ruling, because *Qiyaas* is a *Daleel-e-Zanni*. Nevertheless, since in some era, all the Mujtahiddeen have reached a consensus on this *Qiyaas*, therefore, this now becomes an absolute proof in the Shariah. There now remains no scope for any Mujtahid to differ thereupon.

The types of *Ijma*

Basically there are three types of *Ijma*; (1) *Ijma-e-Qowli,* (2) *Ijma-e-Amali,* (3) *Ijma-e-Sukooti*.

These three are explained hereunder:

1. *Ijma-e-Qowli* is where in any one era, all those who are worthy of making *Ijma*, agree unanimously upon a Deeni mas`alah by way of speech. For example, all the Sahaabah (radhiallahu anhum) agreed to the Khilaafat and took *ba`it* (pledge of allegiance) at the hands of Hadhrat Abu Bakr (radhiallahu anhu).

2. *Ijma-e-Amali* is where in any one era, all those who are worthy of making *Ijma*, agree unanimously upon a Deeni mas`alah by way of action. If all those worthy of making *Ijma* (Mujtahiddeen) regard any action as permissible, then such an act is regarded as permissible by way of *Ijma*. That action which is established by way of *Ijma* is only regarded as being permissible, *Mustahab* or *Masnoon*, it cannot be said to be *Waajib*, unless such a reason can be found which would render it *Waajib*. The four Sunnat before the Zuhr Salaat are regarded as *Sunnat-e-Muakkadah*, by virtue of the Sahaabah (radhiallahu anhum) practising upon it with rigidity.

Note: These two types of *Ijma* are regarded by all Fuqahaa as being a valid proof in the Shariah.

3. *Ijma-e-Sukooti* is where in any one era some Mujtahiddeen agree on a certain mas`alah by way of practise or speech, and this ruling of theirs becomes well-known, but the balance of the

Mujtahiddeen in that same era, notwithstanding having the opportunity to reflect and research this particular mas`alah, opt for silence and they do not openly oppose the ruling.

Note: There is a difference of opinion amongst the Ulama regarding this type of *Ijma*. Imaam Ahmad, most of the Ahnaaf and some of the Shaafees accept this type of *Ijma* as being an absolute proof in the Shariah.

The levels of *Ijma*

With regard to the personalities who make *Ijma*, it is categorised into three levels,

1. The strongest and highest stage of *Ijma* is that which has been agreed upon by way of speech or practise by the Sahaabah (radhiallahu anhum). There is unanimity of the entire Ummat upon this being an absolute proof in the Shariah.

2. The second level is that of the *Ijma-e-Sukooti* of the Sahaabah (radhiallahu anhum). Although the majority of Ahnaaf and other Ulama regard this as being part of the absolute proof in the Shariah, nevertheless, the negator of this will not be classified as a kaafir because there exists a difference of opinion in this (i.e. it forming part of proof in the Shariah), by Imaam Shaafi (rahmatullahi alaihi) and others.

3. The third level of *Ijma* is that *Ijma* which was reached by the Fuqahaa of an era after the Sahaabah (radhiallahu anhum). This is also regarded by the majority as a proof in the Shariah, but it is not absolute (*Qat`i*) proof. The reason for this is that there exists those who do not accept the *Ijma* of anyone else other than the Sahaabah (radhiallahu anhum) as a proof in the Shariah, and because of this difference in opinion, this will not be regarded as an absolute proof. The crux is that, one who negates such an *Ijma* as being a proof in the Shariah, will not be classified as a kaafir.

There exists one other type of *Ijma* after those mentioned above. This is where the *Ijma* of a certain era is transmitted to the following era/s either as *Tawaatur* or as *Khabar-e-Waahid*. There will be a difference in the ruling of each of these.

Naqal-e-Ijma

The *Ijma-e-Amali* and *Ijma-e-Qowli* of the Sahaabah (radhiallahu anhum) which in themselves are absolute proofs in the Shariah, if they reach us as *Tawaatur* or *Khabar-e-Waahid*, then they will remain as absolute proofs and anyone who refutes them will be classified as kaafir. However, if it reaches us a *Khabar-e-Waahid* or any such reliable source, then it will no longer remain as an absolute proof, but rather its effectiveness will be like that of a *Khabar-e-Waahid*, which is *Daleel-e-Zanni*. Shar`i rulings may be formulated therefrom, but the rejecter thereof will not be kaafir.

CHAPTER FIVE

QIYAAS

Definition

To transcribe (convert) an original (*Asal*) ruling (i.e. something which appears in the Qur`aan Majeed or Hadith) into a subsidiary (*Fur`u*) ruling, based on such a causative factor which is common between the *Asal* and *Far`a*, and is not found in common terminology. This is known as *Qiyaas*.

Examples of *Qiyaas*

1. Regarding the *Hurmat* (impermissibility) of drinking alcohol, the Aayat of the Qur`aan Majeed is explicit, *"Indeed alcohol, gambling, 'ansaab' and 'azlaam'(types of gambling- games of chance) are filth, from amongst the practises of shaitaan, hence abstain therefrom."* [Surah Maa`idah, Aayat 90]

The Mujtahiddeen have contemplated over the *Illat* (causative factor) of the impermissibility of alcohol and have deduced it to be intoxication. The ruling regarding alcohol is found in both, the Qur`aan Majeed and Hadith. Now what is the ruling regarding all others intoxicants – are they permissible or not? After contemplation, the Mujtahiddeen have found the same causative factor of intoxication in the other intoxicants as well, hence they have applied the same ruling of impermissibility to these items as well. Just as alcohol is impermissible, so too have they transcribed this ruling which is also applicable to other intoxicants.

In this example, alcohol is the *Asal*, other intoxicants are *Far`a,* impermissibility *(Hurmat)* is the ruling and intoxication is the causative factor (*Illat*).

2. It is mentioned in a Hadith, *"The murderer does not inherit (in the estate of the murdered)."*

After contemplating upon this Hadith, the Mujtahiddeen have deduced that the reason for the non-inheritance of the murderer is that he sought to facilitate his inheritance by committing murder, and this led to his being deprived altogether. Hence, the ruling in the Hadith is given based on the causative factor being an attempt at facilitating a thing before its due time. The Mujtahiddeen have applied this same rule to that person who has been bequeathed something and he murders the one who made the bequest. Just as the inheritor is deprived of his inheritance owing to his committing murder, so too is *Qiyaas* made regarding one who murders another who had bequeathed him/her something, that he too is deprived of receiving his bequeathed item.

In this example, the *Asal* is the inheritance of the murdered, the bequest of the one who made the bequest is the *Far`a*, the *Illat* is seeking a thing before its due time and the ruling is the deprivation of the murderer of that thing (which he sought to facilitate).

The fundamentals of *Qiyaas*

A fundamental (*Rukn*) of a thing is that integral/constituent part, without which that thing cannot exist. Like the *Arkaan* (plural of *Rukn*) of Salaat, *Qiyaam, Qiraat*, etc. From the above discussion it has been established that there are four fundamentals of *Qiyaas*.

1. *Asal* – that is, the ruling which is mentioned in the Qur`aan Majeed or Hadith.
2. *Far`a* – The ruling of that thing which is not found in the Qur`aan Majeed or Hadith.
3. *Illat* (causative factor) – That is the quality or reason which, in the opinion of the Mujtahid is the case for the *Asal* ruling and which is also found in the *Far`a*.
4. The ruling which is applicable to the *Asal*, and which is now being applied to the *Far`a*.

***Qiyaas* being a proof**

The proofs for *Qiyaas* forming a part of Shar`i proof is the following:

1. When Nabi (sallallahu alaihi wasallam) was despatching Hadhrat Ma`aaz (radhiallahu anhu) to Yemen, then the following conversation took place between them, *"Nabi (sallallahu alaihi wasallam) asked, 'What will you do when you are faced with a dispute?' Hadhrat Ma`aaz (radhiallahu anhu) replied, 'I will rule according to what is the Kitaab of Allaah.' Nabi (sallallahu alaihi wasallam) asked, 'If it is not in the Kitaab of Allaah?' He replied, 'Then in the Sunnat of the Rasool of Allaah.' Nabi (sallallahu alaihi wasallam) asked, 'What if it is not in the Sunnat of the Rasool of Allaah?' He replied, 'I will then make Ijtihaad in my opinion and I will not be deficient therein.' He says, 'Nabi (sallallahu alaihi wasallam) struck my chest and said, 'All praise be to Allaah, Who has guided the messenger of the Rasool of Allaah with that which the Rasool of Allaah is pleased.'"* [Ahmad, Abu Dawood, Tirmidhi]

2. *"Indeed a person from Jath`am came to Nabi (sallallahu alaihi wasallam) and said, 'My father has embraced Islaam, and he is very old. He is not able to ride a conveyance, and Hajj is binding upon him. Can I not perform Hajj for him?' Nabi (sallallahu alaihi wasallam) asked, 'Are you the eldest son?' He replied in the affirmative. Nabi (sallallahu alaihi wasallam) then asked him, 'Tell me, if your father had any debts, and you were to repay it, would this suffice on behalf of your father (i.e. will the debts be regarded as having being fulfilled)?' He replied, 'Yes.' Nabi (sallallahu alaihi wasallam) then said, 'You may perform Hajj for him.'"* [Bukhari Shareef/Muslim Shareef/Nisai Shareef]

3. *"Hadhrat Umar (radhiallahu anhu) said to Nabi (sallallahu alaihi wasallam), 'Today I have perpetrated a great felony. I kissed my wife whilst in the state of fasting.' Nabi (sallallahu alaihi wasallam) asked him, 'Tell me, what if you rinse your mouth with water whilst fasting? (Will your fast break?)' Hadhrat Umar (radhiallahu anhu) replied, 'There is no harm in*

that.' Rasulullaah (sallallahu alayhi wasallam) then said, 'what then are you concerned about.'" [Ahmad/Abu Dawood]
Taking water into the mouth is an initial act of drinking, and kissing is the preliminary to intercourse. By rinsing the mouth and not allowing the water to enter the throat will not affect the fast. In this way, Rasulullaah (sallallahu alayhi wasallam) made *Qiyaas* upon this and deduced that kissing will not break the fast.

4. *"Hadhrat Umar (radhiallahu anhu) consulted with others regarding the penalty for drinking alcohol, and said that by drinking alcohol people become involved in vice. Hadhrat Ali (radhiallahu anhu) said, 'When an alcohol consumer drinks alcohol, then he begins speaking drivel and irrationally, which leads to him falsely accusing people, hence you should affix the same punishment as for a defamer and slanderer.' Hadhrat Umar (radhiallahu anhu) (accepting this advice) stipulated the punishment of 80 lashes for drinking alcohol."* [Muwatta Imaam Maalik]

5. At the time of Nabi's (sallallahu alaihi wasallam) final illness, he instructed Hadhrat Abu Bakr (radhiallahu anhu) to lead the Salaat in his stead. When the occasion of choosing a Khalifah arose, the Sahaabah (radhiallahu anhum) made *Qiyaas* for the Khalifah, which is the great Imaamat, on the Salaat Imaamat of Hadhrat Abu Bakr (radhiallahu anhu). *Since Nabi (sallallahu alaihi wasallam) was pleased to appoint him for our Deen, then why should we not do likewise.*

The conditions of *Qiyaas*

1. Understanding the nature and essence of *Qiyaas*. The reality and essence of *Qiyaas* has been outlined above.

2. Understanding the occasion and context of *Qiyaas*. That is, the occasion for making *Qiyaas* is at such a time where there is no clear *Nass* (i.e. a ruling in the text of Qur`aan Majeed and /or

Sunnat). Nabi (sallallahu alaihi wasallam) asked Hadhrat Ma`aaz (radhiallahu anhu), *"When you do not find any ruling in the Qur`aan Majeed or in the Sunnat of The Rasool of Allaah?"* He replied, *"I will then make Ijtihaad of my opinion."* In other words, *"I will make Qiyaas."* Nabi (sallallahu alaihi wasallam) approved of this response. From this it is clear that *Qiyaas* will only be permissible when there is no clear *Nass*.

3. One needs to be qualified to make *Qiyaas*. From the incident of Hadhrat Ma`aaz (radhiallahu anhu) it is apparent that the one who makes *Qiyaas* needs to be qualified for it. That is, he must be a proficient Aalim of the Deen and also have the attributes of a Mujtahid. Otherwise, how will he know that the mas`alah is not in *Nass* (i.e. he must have a deep insight and knowledge of Qur`aan Majeed and Hadith. He must also have the ability to extract and prove Masaa`il. In the absence of this how would he ever know whether the mas`alah in question is in the Qur`aan Majeed or Hadith?)

4. He must recognise the object of *Qiyaas*. The object of making *Qiyaas* is that he will achieve that ruling which is not explicitly found in the Qur`aan Majeed or Hadith. Hence, he has to restrict himself to those ruling which are present. He should not exercise *Qiyaas* and find rulings in matters where it is not needed or occasioned. If he looks for *illats* and reasons in such cases where there is no need or justification for it, and by doing so he deduces his own rulings, is completely not permissible and this is *Tahreef* (changing) the Deen. An example of this would be where some people claim that the *Illat* for making wudhu is that since the Arabs during the era of Nabi (sallallahu alaihi wasallam) were mostly shepherd and farmers, hence their faces and hands would become soiled during the course of their daily chores, hence the order to make wudhu was given (to them specifically) before performing Salaat. Nowadays, we travel in cars and trains, and we generally take a bath in the mornings, so our bodies do not get soiled with dust and sand, so the same *Illat* is not found for us as was present for the Arabs during the

time of Nabi (sallallahu alaihi wasallam). This would mean that we do not have to make wudhu before performing Salaat.

5. A condition for an *Illat* is that it is such a quality which is considered and recognised by the Shariah. Hence, it needs to be proven in the light of the Shariah, before it can be applied.

CHAPTER SIX

WHAT IS ILM-E-FIQH?

The definition of the Fiqh according to Imaam Abu Hanifah (rahmatullahi alaihi)

“The recognition of a thing, with its advantages and disadvantages.” That is, for a person to know those things wherein there is benefit for him (i.e. by fulfilling the injunctions of Allaah Ta`ala and to opt for halaal actions), and wherein there is harm for him (i.e. to safeguard himself from the prohibitions of Allaah Ta`ala and haraam things).

In the light of this definition, *Ilm-e-Fiqh* includes *Aqaa`id* (beliefs), *Akhlaaq* (character) and *A`maal* (actions). This general definition is used for Fiqh in the Hadith and the statements of the predecessors.

In a Hadith, Rasulullaah (sallallahu alayhi wasallam) said, *“He for whom Allaah desires good, Allaah grants him Fiqh (understanding) in Deen.”*

Nabi (sallallahu alaihi wasallam) also, made the following supplication for Hadhrat Abdullah Ibn Abbaas (radhiallahu anhu), *“O Allaah, grant him Fiqh (understanding) in Deen and teach him (the knowledge of) interpretation.”*

Hadhrat Hasan Basri (rahmatullahi alaihi) said, *“Indeed a Faqeeh is a Zaahid of the world (one who abstains from the world), one who is desirous of the Hereafter, one who has insight in matters of Deen and one who is constantly engaged in the Ibaadat of his Rabb.”*

According to this definition, *Ilm-e-Aqaa`id* is known as *Fiqh-e-Akbar (the great Fiqh), Ilm-e-Akhlaaq* is known as *Fiqh-e-Ausat (the middle Fiqh)* and knowledge of the rulings of actions (*Ahkaam-e-Amaliyah)* is known as *Fiqh-e-Asghar (the small Fiqh).*

Imaam Shaafi (rahmatullahi alaihi) defined Fiqh as only being the knowledge of Ahkaam-e-Amaliyah

"Knowledge of Ahkaam-e-Amaliyah with its detailed proofs."
An explanation of this is as follows – if we say that Salaat is Fardh in the light of the Qur`aanic Aayat, then in this case we have presented an abridged and general proof for the incumbency of Salaat. However, if we dilate a bit more and say that the proof for the incumbency of Salaat lies in this Aayat of the Qur`aan Majeed, *"Establish Salaat"*, then we have shown a detailed proof for the incumbency of Salaat.

Hence, the Qur`aan Majeed, Sunnat, *Ijma* and *Qiyaas* are abridged proofs for rulings. However, (to present) the relevant Aayat from the Qur`aan Majeed, the relevant Hadith from the Sunnat or the relevant *Qiyaas*, would constitute a detailed proof. To know the detailed proofs for the rulings of Shariah is known as *Ilm-e-Fiqh.*

Usool-e-Fiqh

Those proofs whereby Fiqh (*Ahkaam-e-Shar`iyah Amaliyah*) is acquired. There are four *Usools* and proofs – Qur`aan Majeed, Sunnat, *Ijma* and *Qiyaas.* The rulings for the Shar`i actions (*Ahkaam-e-Shar`iyah Amaliyah*) are acquired and deduced from these four proofs. The details of this will follow in the following chapter.

CHAPTER SEVEN

ILM-E-USOOL-E-FIQH (The Knowledge of the Principles of Fiqh)

Definition

"The knowledge of those rulings and principles whereby the Mujtahid extracts the relevant Masaa`il with their detailed proofs."

The definition of these rules and regulations will Insha-Allah Ta`ala, be mentioned in brief in the forthcoming pages.

A few rules, regulations and principles wherewith the Mujtahid deduces laws from the Qur`aan Majeed and the Ahaadith

The Qur`aan Majeed and the Ahaadith are in the Arabic language, and they are comprised of words and sentences. Therefore it is absolutely imperative for anyone who wishes to become acquainted with the Qur`aan Majeed and Hadith to fully understand the words contained therein and their usage.

The experts in the language have categorised words according to their application.

They have specified four categories; *Khaas, `Aam, Mushtarak and Mu-awwal.*

Each of these is either used in their actual or real forms, which will be termed *Haqeeqat.* Alternatively, the actual meaning will be abandoned and another suitable and contextual meaning will be applied. This is known as *majaaz*. Hence there are also four categories of usage, *Haqeeqat, Majaaz, Sareeh and Kinaayah.*

All these types, (when applied to words), will either show its apparent (*zaahir*) meaning or a hidden (*khafi*) one. And since there are various stages and levels of *zaahir* and *khafi*, hence as far as the application of this further divides into eight types, *zaahir, nass, mufassar, muhkam, khafi, mushkil, mujmal and mutashaabè.*

Finally we look at which way the word is applicable to its meaning. This is termed *Ibaaratun nass.* There is either *Ishaaratun nass, Dalaalatun nass* and *Iqtidhaa-un nass.*

All this is the work of the Mujtahid, who, in order to extract rulings from the Qur`aan Majeed and Ahaadith, will analyse each and every word and categorise them accordingly. He will analyse it according to its usage, application of meaning, as far as *zuhoor and ikhfaa*, etc., etc. this is done, because the ruling of each category will be different.

Hereunder we will dilate in a bit more on the words and their types.

The types of words as far as their application to meaning is concerned

Khaas:

It is that word which applies to a specific thing or meaning. For example, *Khalid*, table, three, etc. The ruling of a word which is *khaas* is that it is necessarily applied in precisely the way it was intended, so that no change in its meaning comes about. For example, it is stated in the Qur`aan Majeed, *"The divorced women will withhold themselves (remain in iddat) for three Haidh periods."*

In this Aayat, the word 'three' is used, which denotes a specific number. This number will be applied as it appears, without any decrease or increase.

The ruling of the Shariah is that if a man wishes to give his wife a divorce then he should do so during her *paak* days and not during the days of her Haidh. If the divorce is given during the days of her Haidh, then it will be effected, but that particular Haidh will not be included in the count of *iddat.* Hadhrat Abdullah bin Umar (radhiallahu anhu) once divorced his wife during her Haidh, and Nabi (sallallahu alaihi wasallam) instructed him to take her back.

The word *'Qar-un'* (the plural of which is *Quroo*) has two meanings in the Arabic grammar. It either means Haidh or the *paaki* (clean period) which comes after the Haidh. If we take the meaning to be *paaki*, then if the

husband gives his wife a divorce during the *paak* period (as the Shariah orders), then will that particular *paaki* be included in the count of *iddat* or not? This *paaki* will be less than a full duration, because the divorce was issued after some of it had passed. If it is excluded in the count, then together with the following two *paakis*, it will constitute less than full three and if it is excluded, then it will be more than a full three. Either way a full three will not be practised upon. However, if the meaning of *Quroo* is taken to mean a Haidh period, then when the divorce is given in *paaki*, then it will be possible to count a full three Haidh thereafter. If the divorce is given during Haidh, and since the Shariah does not count that Haidh as part of the *iddat*, it will be still be counted as full three Haidh, which will commence from the following Haidh. Hence, if the meaning of *Quroo* is taken to mean Haidh then it will be possible to practise on a full three (which is what the Qur`aanic Aayat denotes).

`Aam:

It is that word which is applied to one collective group, for example, Muslims, women, etc. And it can also apply to those words upon which a *Laam Ta`reef (Alif Laam)* appears, like *As-Saariq, Az-Zaani*, etc.

An *`Aam* word is of two types

The one type is when all the constituents are included therein, and none are excluded. In this type, the *`Aam* word remains in its original general form and the ruling of this type is that all its constituents are referred to and applicable. For example, in the Aayat, *"And there is no animal on earth, except that its sustenance is upon Allaah."* In this Aayat, the word *'Daab-bah' (animal)* is a common noun (*Nakirah*), and since it appears after the *maa* of *nafi (negative)* it is *`Aam.* This means that (the responsibility of) each and every animal's sustenance is upon Allaah Ta`ala.

The second type is when because of some pertinent factor or proof, some of the constituents are excluded from the ruling of the *`Aam* word. For example, in the Aayat, *"And for Allaah, (it is His right) upon the people that they perform Hajj of The House, for whom the road is easy (those who have the ability to do so)."* [Surah Aale Imraan, Aayat 98)

The word *An-Naas (people)* is *`Aam*. It includes those who are *Mukallaf* (those upon whom the acts of Ibaadat are binding), and those that are *Ghair-Mukallaf* (those upon whom the acts of Ibaadat are not binding - like immature children, insane, etc.). However, in this case, owing to logical and rational thinking, immature children are excluded from this *`Aam* ruling. This is known as *Takhsees*, that is, right from the outset, some constituents are excluded from the group, upon which the *`Aam* applies, based on some proof.

Mushtarak

It is that word, which is applicable to various different meanings. For example, the word *Quroo,* which appeared above. This word is applicable to two different meanings, Haidh and *paaki*.

In such a case it is not possible that both the meanings apply at one and the same time. After careful contemplation and study, one particular meaning is applied and used. This is the duty of the Mujtahid, to utilise any proofs and to establish any circumstantial factors to extract the correct meaning. Imaam Abu Hanifah (rahmatullahi alaihi) had taken the meaning of the word *Quroo* to be Haidh, based on the fact that the word *Thalaatha (three)* is *`Aam,* and he also took into consideration other factors and proofs.

Mu-awwal

When the Mujtahid extracts a certain meaning for a word from the *Mushtarak* then that word is known as *Mu-awwal* for that meaning. For example, the word *Quroo* is *Mu-awwal* for the meaning of Haidh.

The ruling for *Mu-awwal* is that it will be Waajib to practise upon that meaning for the word which the Mujtahid has extracted. However, it will not be averred that that particular meaning is absolute. There is the possibility that in the Sight of Allaah Ta`ala the other meaning was correct.

The types of words with regard to the usage of their meaning

Haqeeqat and majaaz (literal and figurative)

When any word is used in its literal, actual and original meaning then it is known as *Haqeeqat.* When the actual meaning is abandoned and another (figurative) meaning is taken, owing to relevant and circumstantial factors, then this is known as *majaaz*. For example, the *haqeeqi* meaning of the word angel is a celestial being created from light, whereas if this word was used for a human being then it would imply that person's pure and chaste (angelic) qualities and this would be its *majaaz* (figurative) application. For example, if a persons says regarding his son, *'Haaza Ibni'('This is my son')*, then this would be a *haqeeqi* usage, whereas if he says the same about his slave, then it would be *majaazi*.

Some rules regarding *Haqeeqat and Majaaz*

1. Both, the *haqeeqi* and *majaazi* meanings cannot be used at one and the same time for one word;

(a). It is stated in the Qur`aan Majeed, *"And if you are ill or on journey, or if any of you relieves himself, or has intercourse with his spouse, and does not find water, then he should make tayammum with pure sand."*

The *haqeeqi* meaning of the word *'Laamastum'* is to touch with the hand and the *majaazi* meaning is to have sexual intercourse. In this Aayat, there is a consensus that the word is used in its *majaazi* form. Now, in this Aayat, the meaning of mere touching with the hand will not be taken for the word *Laamastum*.

(b). Similarly, the word *'Aulaad'(children)* will be used in its *haqeeqi* form if one refers to children born from one's own sperm, whereas the word *'Aulaad'* will be in its *majaazi* meaning if used to refer to one's grandchildren.

(For example), If someone makes a bequest that a certain amount of money be given to the *Aulaad* of Zaid, who has children and grandchildren. In this

case, Zaid's actual children will receive the bequest, since both the *haqeeqi* and *majaazi* cannot be used and applied together. Zaid's grandchildren will not receive any portion of the money.

2. In what regard is *majaaz* the substitute of *haqeeqi*?

Since *majaaz* becomes the deputy and substitute of *haqeeqi*, this substitution of *majaaz* for *Haqeeqat* needs to be looked at.

(a). This is either done by way of speech

That is, where the statement is only used with a *majaazi* implication, in the Arabic context, and the *haqeeqi* meaning is not meant. In this case only the *majaazi* meaning will be taken.

For example, if a man says *'Haaza Ibni' ('This is my son.')* regarding his slave, who is elder than him, and also regarding whom his real father is known, then this statement of his will be grammatically and colloquially correct insofar as the Arabic terminology is concerned. There is no grammatical inaccuracy in this statement. Nevertheless, the actual and real meaning of this sentence cannever be applicable, since one cannot have a real son who is elder than one. Imaam Abu Hanifah (rahmatullahi alaihi) states that in this case, since the *haqeeqi* meaning cannot be taken, because the lineage of this slave is known and also, one cannot have a son who is elder than the father, hence only the *majaazi* meaning will be taken and this slave will be freed. Imaam Abu Hanifah (rahmatullahi alaihi) only took into consideration the sentence with regard to the Arabic usage thereof, in that it was a valid and (grammatically) correct sentence. He did not take into cognisance the actual and real implication of this sentence.

(b). Or with regard to its ruling

Besides the Arabic terminology, the ruling, i.e. the *haqeeqi* meaning can also be effected. On such occasions, when the *haqeeqi* meaning is not meant, then the *majaazi* meaning will come into play. This is the view of Imaams Abu Yusuf and Muhammad (rahmatullahi alaihima).

For example, in the above cited example since the ruling cannever be correct or applicable (that one has a son elder than one), then the *majaazi* meaning will not be taken and such a sentence will be regarded as *laghw* (futile and useless talk).

However, if a young boy, whose father is known to be a certain person, and his master says *"Haaza Ibni"*, then since his age is such that if his real father was not known he could pass as the son of his master, the *majaazi* meaning will be taken (i.e. he will be set free).

According to Imaam Abu Hanifah (rahmatullahi alaihi) the slave will be regarded as having been set free in both the above examples, whereas according to *Saahibain* (Imaams Muhammad and Abu Yusuf - rahmatullahi alaihi), the slave will only be freed in the second example.

Sareeh and Kinaayah

Regardless of whether a word is taken as *haqeeqi* or *majaazi*, sometimes its meaning and objective is clear and at times it is hidden. If it is clear then it is called *Sareeh*. For example, if during transacting a sale someone says, *"Bi`tu"* (*"I have sold"*) or *"Ishtaraytu"* (*"I have bought"*), then this will be *Sareeh* in its *haqeeqi* meaning. Or if a person says, *"Akaltu min Hazihish Shajarati"(I have eaten from this tree)*, then the *majaazi* meaning, that is the fruit of the tree, will be the *Sareeh* meaning.

When the object is hidden, then it is known as *Kinaayah*. The object and true meaning of the word will only be known if there is some contributing factor attached or accompanying it. For example, if a man tells his wife, *"You are free"*. The meaning of this sentence is unclear because freedom can be given from a task/responsibility or from Nikah. If the husband meant Talaaq, or if his sentence was in reply to his wife's request for Talaaq, then this will imply freedom from the bond of Nikah, i.e. Talaaq.

It is stated in a Hadith that *Hudood* (divinely prescribed punishment) should not be implemented if there is doubt. So therefore, *Kinaayah* will be regarded as a doubt because of its real and true meaning being hidden. For example, if four people give a testimony that Zaid had exceeded the bounds

with regard to a certain woman, or that he has struck an illicit relationship with her. Based on such testifications, the *Hadd* for adultery will not be implemented on Zaid, because such vague and ambiguous terminology could mean that Zaid had merely kissed or embraced the woman. However, if they speak in clear and unambiguous terms that just as the *surma* stick is inserted into the *surmadaan* (contained of *surma)*, they had seen Zaid committing adultery, then the *hadd* will be implemented.

The types of words and speech with regard to the apparentness and clarity of meaning

Zaahir

It is that word or speech whose meaning and import is ascertained by mere listening.

Nass

It is that word, the meaning of which is understood by listening and also, this word/sentence was brought with that very same object in mind.

i). For example, it is stated in the Qur`aan Majeed, *"Allaah has made bai` (sale) halaal and usury haraam."* This Aayat makes clear the permissibility of buying and selling and the prohibition of interest. The mere listening of these words makes clear the meaning.

This Aayat was brought in order to make a distinction between sale and interest, because the kuffaar used to aver that sale and interest are one and the same. This Aayat was revealed in order to refute this claim of the kuffaar, hence this Aayat is *nass* with regard to this.

ii). *"And marry whoever you are able to from amongst the women, two, three or four."* This Aayat gives the permissibility of Nikah, and it is *nass* with respect to marrying upto four wives.

If there is a contradiction between *nass* and *zaahir*, then because *nass* holds a higher status than *zaahir*, it will be granted preference. For example, in

the Aayat, *“Besides these (women who are mentioned that are haraam to marry), all others are halaal.”* It is *zaahir* from this Aayat that one is allowed to marry more than four wives, whereas in the Aayat mentioned above, it is ascertained from *nass* that one is only allowed a maximum of four wives. Since there is a seemly contradiction between these two Aayaat, we will opt for *nass* and say that it is haraam to have more than four wives at one time in wedlock.

Mufassir

There is a possibility of making *takhsees(specific classification)* in *nass* and *zaahir*. When the possibility of *Ta`weel (interpretation)* and *takhsees* are removed, then such a sentence is known as *Mufassir*. However, during the era of Nabi (sallallahu alaihi wasallam), there was the possibility of it being made *Mansookh* (abrogated).

For example, in the Aayat *“And lash them (with) eighty lashes”,* the number 80 is specified and there is no possibility of increasing or decreasing in this amount.

If there is a contradiction between *nass* and *Mufassir*, the latter will be granted preference. For example, it is stated in a Hadith, *“A Mustahaadha (women who perpetually bleeds) must make wudhu for every Salaat.”* This Hadith is *nass* that a *Mustahaadha* must make wudhu for every Salaat, even though they (a few Salaats) are performed in one Salaat time. However, there is a possibility that the word *Salaat* in the Hadith refers to the time of Salaat, since Nabi (sallallahu alaihi wasallam) once said to Hadhrat Faatimah Binti Abi Jaish (radhiallahu anha), *“Make wudhu for the time of every Salaat.”* This Hadith is *Mufassir* on this issue that it is Waajib for a *Mustahaadha* to make wudhu for every Salaat time. There is no other possibility other than this.

Muhkam

This is that word whose meaning is clearly evident and there is no possibility of *Ta`weel* or *takhsees* and also there is no possibility of abrogation. For example, *“It is not (appropriate) for you that you harm The*

Rasool of Allaah, and that you marry his wives after him, ever." [Surah Ahzaab, Aayat 53]

This Aayat is *Muhkam* and there is no possibility of it ever being abrogated, because it has the word *"ever"* attached to it.

If there is a contradiction between *Muhkam* and any other which is below, then *Muhkam* will be granted preference. For example, the above Aayat is *Muhkam* that it is not permissible for any Ummati to ever marry any of the wives of Nabi (sallallahu alaihi wasallam), until the Day of Qiyaamah. Whereas the Aayat *"Besides these (women who are mentioned that are haraam to marry), all others are halaal"*, is *nass* that besides the family women who are haraam upon one, all others, including the wives of Nabi (sallallahu alaihi wasallam) are permissible. Because of the apparent contradiction, the *nass* will be abandoned and *Muhkam* will be acted upon.

The four types of speech with regard to the concealed meaning

Khafi

It is that word where the concealment of meaning is not in the actual word itself but rather because of some temporary factor.

It is stated in the Qur`aan Majeed, *"The male thief and female thief, cut off their hands."* [Surah Maa`idah, Aayat 38]

The word *'Saariq' (thief)* is *zaahir* and refers to every such person who steals the protected wealth of someone else in a clandestine way.

Is a *kafan* thief and pickpocket also included in this definition? This is concealed. If one contemplates over the matter then it will be noted that the definition of a pickpocket is more than that of a common thief, because a pickpocket is someone who steals things from a person who is awake and a thief (usually) steals from someone who is asleep. And the definition of a *kafan* thief is less than that of a common thief, because a dead person cannot protect his things, hence the definition of a thief would not apply exactly on a *kafan* thief. The crux of the matter is that since the *kafan* thief

does not exactly fill the description of a common thief, his hand will not be cut off, and the pickpocket who is more than the common thief, will have his hand cut off.

Mushkil

This is that word where the concealed meaning is to be found in context. To understand its meaning and import necessitates contemplation, reflection and context. For example, it is stated in the Qur`aan Majeed, *"Your wives are (like) plantations for you; hence you may come (enter/plough) your plantations from however (i.e. whichever direction) you wish."*

In this Aayat, the word, *'An-na'* (from wherever) is *Mushkil*, because this word is used with dual meanings in the Qur`aan Majeed. In the Aayat, *"How can I have a child?"*, it is used with the meaning *"How"*. And in the Aayat, *"From where did you get this?"*, the word *'An-na'*, is used in the meaning of *"From where"*.

Since the meaning is ambiguous, one needs to contemplate over its meaning in the Aayat at hand. After some reflection, it is deduced that one cannot enter his spouse from the anus, and intercourse is only allowed from the front orifice (vagina). Therefore, in this context, the meaning of *"However, i.e. whichever direction"* will be used. That is, one may enter his spouse either laying down, sitting, standing.

Mujmal

If a word has such concealment in meaning that it is not understood except by the speaker's explanation, where without this (explanation and dilation of the speaker) the meaning is not understood, then such a word is known as *mujmal.*

To understand the meaning of such a word, one needs to reflect over the speech of the Speaker and see if he has not explained its meaning somewhere, or if possible he will have to be asked what the meaning thereof is. For example, it is stated in the Qur`aan Majeed, *"And Riba has*

been made haraam." The literal meaning of *Riba* is to increase, and this cannot be the meaning of the word in this context, because general business and trade also includes an increase in wealth.

It has been explained in the Hadith Shareef that *Riba* is that increase in wealth where there is disparity in exchange of goods which are of the same type. Had this explanation not been found in the Hadith, then the true meaning of *Riba* would not have been known.

Mutashaabeh

This is such a word, where the ambiguity in meaning could be removed by the explanation of the speaker, but there is no possibility of ever getting this explanation from the speaker. For example, the *Huroof-e-Muqatta`aat* which appear in the Qur`aan Majeed, and the usage of the words like hand shin, etc. for Allaah Ta`ala. The ruling of such words is that we accept and believe them to be true, however we do not comment on their reality and true meanings. In this regard we maintain silence.

The types of usages of the words in their intended meanings

There are four types, *Ibaaratun nass, Ishaaratun nass, Dalaalatun nass* and *Iqtidhaa-un nass.*

In these four, the word *nass* refers to that word whose meaning is known.

Ibaaratun nass

This is where the established meaning was the actual intended meaning and this speech was actually brought with this meaning in mind. For example, *"And upon the father (of the child) is that he maintain and clothe the women."*

The meaning of this Aayat is that it is the duty of the father of a child that he maintain the divorced mother of his child whilst she is suckling it. This is the actual reason for bringing this Aayat and this ruling will apply.

Also, the Aayat, *"Establish Salaat and give Zakaat"* is *Ibaaratun nass* which indicates the incumbency of Salaat and Zakaat.

Ishaaratun nass

The meaning has been established of the word, however, this was not its direct or intended meaning, and this sentence was not brought with this in mind. For example, from the Aayat *"And upon the father (of the child) is that he maintain and clothe the women",* we establish by way of indication that the lineage of the children will be attributed to the father. The reason for this deduction is that in the Aayat the *laam*, which denotes possession is indicated towards the father.

"So now have sexual relations with them (your wives) and seek that which Allaah has ordained you (offspring), and eat and drink until the white thread (light) of dawn appears to you distinct from the black thread (darkness of night), then complete your fast till the nightfall." This Aayat has been revealed to indicate that during the nights of Ramadhaan, eating, drinking and sexual intercourse are permissible. This meaning would be the *Ibaaratun nass* of this Aayat. At the same time, this Aayat indicates (*Ishaarah*) that these three acts are forbidden during the days of Ramadhaan. The portion of the Aayat, *"then complete your fast till the nightfall"* indicates that one should abstain from these three acts during the daytime.

Dalaalatun nass

The object and meaning of the word which is not established by the actual usage, but it is established by its colloquial usage, and regarding which it is said that this meaning is achieved by virtue of *Dalaalatun nass*. For example, in the Aayat *"Do not say to them (your parents) 'oof' and do not hurt them",* the *Hurmat* (total impermissibility) of saying *'oof'* and chiding and reproaching one's parents is established by *Ibaaratun nass*. However, the person who understands the Arabic language will know that the object here is not to dishearten and cause dejection to parents. In this regard physical and verbal abuse cause hurt to one's parents, and all this is also haraam. This is not *Qiyaas*, because any person who does not even have the

slightest knowledge of *Qiyaas*, will be able to discern this meaning from the mere usage thereof.

Therefore, the *Hurmat* of saying "oof" and chiding one's parents is established from *Ibaaratun nass* and the *Hurmat* of hitting one's parents is established by *Dalaalatun nass.*

Iqtidhaa-un nass

This is where the speaker has spoken something and this sentence will only be correct and executable when something further is added to it. For example, if someone says to another person, *"Free your slave for me in exchange for a thousand rands."* If he meant by this sentence that the slave should be freed and a thousand rands be taken from him (speaker) in exchange for this, then this is incorrect, because the choice of freeing the salve rests with the owner and if he frees the slave, then why should he take a thousand rands from the other person?

Hence, this sentence would be incorrect if this meaning was intended. However, if we assume that by saying this he meant, *"You sell the slave to me in exchange for a thousand rands, and then you become my agent and free the slave on my behalf*", then the sentence would be correct. Hence, for the sentence of the speaker to have meaning and be correct, this extra (unmentioned) part is assumed to be part thereof. Since, such a sentence would be regarded as correct in Arabic linguistic usage, therefore the necessary (extra) part is assumed to be a part thereof.

Another example would be the Hadith, *"Mistakes and forgetfulness have been lifted (forgiven) for my Ummat."* The apparent meaning of this sentence would be that this Ummat would not make any mistakes or forget, whereas this is contrary to the reality. However, this sentence would be correct if we attribute mistakes and forgetfulness to sinning. In other words, we assume the sentence to be *"Sins committed by mistake and forgetfulness, are lifted from my Ummat."*

The above four types with regard to their strength and rankings according to revelation

First is *Ibaaratun nass* then *Ishaaratun nass* then *Dalaalatun nass* and finally *Iqtidhaa-un nass*. In this sequence, if there is a contradiction between them in any one place then preference will be given accordingly. For example, in the Aayat *"And he who kills a believer purposely, his recompense will be Jahannum, he will abide therein forever"*[Surah Nisaa, Aayat 93], we establish by *Ishaaratun nass* that there is no compensation *(Kaffaara)* for (purpose and wilful) murder, because it is stated in the Aayat that such a person's only compensation will be The Fire of Jahannum.

In the Aayat, *"He who kills a believer mistakenly, he should (in compensation) free a believing slave"*, it is established that there is *kafaara* for killing a believer by mistake. By *Dalaalatun nass* it is established from this Aayat that there should also be *kaffaara* for wilful murder of a believer. The reason being that *kaffaara* is prescribed for a sin and murder is a greater sin than killing by mistake.

Since there is a contradiction in rulings between the two Aayaat, *Ishaaratun nass* will be granted preference over *Dalaalatun nass* and a compensation will not be prescribed for (wilful) murder.

The principles and laws regarding *Amr* (imperative command) and *Nahy* (prohibition/negative command)

Amr – This is that word/sentence which is spoken in an authoritative way to instruct and order a certain action. For example, *"Establish Salaat and give Zakaat."*

The rulings of *Amr*

1. It is Waajib to carry out the action which is ordered, unless there is some contributing factor whereby it is established that compulsion is not intended, and in fact permissibility (*Nudub, Istihbaab, Ibaahat*) is intended. For example, the compulsion of Salaat and Zakaat is established from the Aayat, *"Establish*

Salaat and give Zakaat." In the Aayat, *"When you have completed (the Jumuah) Salaat, spread out on the earth and seek the Bounties of Allaah",* the instruction to spread out on earth and seek the Bounties of Allaah Ta`ala is indicative of a permissible act and it is not an imperative command. A contributing factor, which leads us to this conclusion is that during the era of Nabi (sallallahu alaihi wasallam), some Sahaabah (radhiallahu anhum) would, after the completion of the Jumuah Salaat, partake of meals and others would have a siesta.

2. The ordered instruction is not to be repeated. For example, if someone orders another to move a chair from one place to another, then it is understood that this instruction applies only one. It does not mean that whenever the chair is found to be away from that place it is to be placed there. Similarly, if someone orders another to hit someone else with a stone, then one hit will suffice for that instruction and it does no mean that he must be continuously hit. The instruction, *"Establish Salaat"* also indicates that Salaat be established just once. Nevertheless, the repetition of the Salaat which occurs is so owing to the causative factor in Salaat, which is time. It is stated in the Qur`aan Majeed, *"Indeed Salaat is binding upon its (prescribed) time for the believers."* Firstly, there are different times, and then this is repeated every day, hence, Salaat is performed daily.

Nahy

This is the instruction which is issued for an action to be discontinued.

The rulings of *Nahy*

1. That act which is prohibited from, its execution is haraam or *Makrooh-e-Tahrimi*, unless there is some contributing factor which indicates that there is some other meaning. For example, in the Aayat, *"Do not go near Zina"*, the prohibition is explicit,

whereas in the Aayat, *“Make no excuses this Day! You are being requited only for what you used to do”*, the *Nahy* is used to indicate that no excuses be made and it is not used to show prohibition. In fact, it is used in order to create dejection and despondency in those who will make excuses, implying that their excuses will be of no avail.

CHAPTER EIGHT

THE LAWS OF FIQH (ISLAMIC JURISPRUDENCE)

Hereunder are listed a few of the major and important laws and rules deduced by the Mujtahiddeen from the Qur`aan Majeed and Hadith. By making use of these laws, they had extracted many Masaa`il, made Ijtihaad, and deduced many rulings which are not clearly and explicitly found in the Qur`aan Majeed or Hadith.

Law #1

"There is no Thawaab (reward) except with intention"

The proof for this law lies in the Hadith, *"Indeed all actions are (based) upon their intentions…"*. If we assume this to mean that without intentions, actions will not take place, then this is totally contrary to the reality, because many actions take place without there having been any intention. Therefore, there has to be some addition which is (assumed to be) included in this sentence (Hadith), and that is, *"Indeed all actions are based or judged according to their intentions."*

Since rulings come at the end and results in recompense, therefore, this sentence should read, *"Indeed the recompense of actions is according to the intention."*

One does not receive any reward for merely abstaining from evil actions, like for example, if a person, abstains from sins like adultery, backbiting, theft, etc. whilst engaged in Salaat, then he does not receive any reward for this abstention. However, if there is some inviting factor towards an evil, and a person has the ability to carry it out, but he takes control of his naffs and abstains therefrom, then there will be reward for him in that, because suppressing the naffs is a good act.

Law #2

"The basis of dealings rests with the intention and objective."

One of the proofs for this law lies in the Hadith, *"Indeed all actions are (based) upon their intentions…"*, and another proof is in the Aayat, *"And do not cooperate and aid in sin and rebellion."* This is demonstrated in the following example – it is permissible to sell grape-juice to a non-Muslim living in a Muslim country, even though he will use it to manufacture wine. However, if the Muslim sells it with this intention in mind that the non-Muslim makes wine with it, then he will become an accomplice in the sin. Therefore, his being regarded a sinner and not a sinner is based upon his intention. This Aayat shows that we should not become involved in sin by despoiling our intentions.

Some Masaa`il which are derived from this Law:

a). Someone sold grape-juice to a non-Muslim and he (the latter) made wine therefrom. If the sale was executed with only the intention of it being a pure business transaction, then it will be permissible (because it is permissible for a non-Muslim to deal and consume wine). However, if the at the time of selling, the Muslim (seller) makes this intention that the non-Muslim will or must make wine therefrom, then such a sale is haraam.

b). If one Muslim, due to normal circumstances, does not meet with another Muslim for a lengthy period of time, then there is no harm, however, if they avoid each other for three days and more, because of purposeful intent of breaking ties, then this is impermissible and sinful.

c). If a person says *Alhamdulillaah* whilst performing Salaat, with the intention of Thikr, then there is no harm, however, if it is said in reply to someone else giving good news, for example, then because this constitutes normal speech, the Salaat will be broken.

Law #3

"Certainty is not negated or removed by doubt."

The proof for this Hadith lies in the Hadith which appears in Muslim Shareef, where Hadhrat Abu Hurairah (radhiallahu anhu) reports that Nabi (sallallahu alaihi wasallam) said, *"If any of you finds some movement in his stomach (like flatulence), and he doubts as to whether anything came out or not, then he should not leave the Masjid until he hears the sound or smells it."*

Mas`alah:

The Muslims have conquered a fort. There is certainty that there is at least one *Zimmi (non-Muslim citizen in Muslim State)* present in that fort, but he cannot be identified or recognised, then it will not be permissible to kill the occupants of that fort (because it is not permissible for Muslims to kill a *Zimmi*).

Mas`alah:

A person is certain that he made wudhu, but he cannot recall whether that wudhu broke or not, then he will be regarded as being with wudhu. Similarly, if a person is certain that his wudhu broke, but he cannot recall whether he made a new wudhu or not, then he will be regarded as not having wudhu.

Mas`alah:

A person has doubt as to whether he performed his Zuhr Salaat or not, then it will be taken as though he did not perform it.

Mas`alah:

If a person has certainty of carrying out an act, but there is doubt as to the quantity thereof. In such a case, he will assume the least quantity, because there is certainty in this, whereas the doubt lies in the bigger quantity. For

example, if a person is making *Tawaaf* (circumambulation of the Kaabah Shareef), and he has doubt as to whether he made six or seven circuits, then he will assume to have made six.

Law #4

"Difficulty brings in ease."

The proof hereof lies in the following:

1. The Aayat, *"Allaah intends for you ease and He does not intend for you difficulty."*
2. The Aayat, *"And no difficulty was placed for you in the Deen."*
3. The Hadith, *"The most beloved (part of) Deen to Allaah Ta`ala is that which is done with sincerity and ease."*

All the ease and latitudes and flexibilities in the Shariah are derived from this Law.

There are seven contributing factors which allow for 'lenience' in Ibaadaat: travel, illness, duress, forgetfulness, ignorance (not knowing), perpetration of the masses and difficulty.

Mas`alah:

Urine which is equal to the size of a needle head is forgiven and overlooked.

Mas`alah:

The mud which attaches to one's clothes from the road, is overlooked, as long as there is no overwhelming effects of impurity.

It will only be permissible for the Mujtahid to allow for ease and leniency in those matters wherein there is no clear *nass*. If there is *nass* on any matter, then it will not be permissible for him to add or subtract to that. For example, it is stated in the Hadith that it is not permissible to cut any grass

in the precincts of the *Haram* of Makkah Mukarramah. The only exception to this prohibition is a type of grass called *Izkhir*. It will now be impermissible for any Mujtahid to allow for the cutting of any other grass besides *Izkhir*, because it is causing difficulty or inconvenience.

Law #5

"Harm is to be removed."

The proof for this Law lies in the Hadith of Nabi (sallallahu alaihi wasallam) where he said that one should not cause harm nor should harm be inflicted upon one.

Mas`alah:

The branches of the mulberry tree are sold. When the buyer climbs the tree to cut off the branches, then his sight falls into the homes of the neighbours. He will be ordered to inform the neighbours prior to his climbing the tree, so that they may conceal themselves. If he practices upon this then it is fine, otherwise, if a complaint is lodged with the governor, then he (the buyer) will be prevented therefrom.

Law #6

"Necessity (i.e. in matters of life and death) permits the (usage of the) impermissible"

The proof for this Law lies in the following:

1. *"He who disbelieves in Allaah after bringing Imaan, except the one who is forced (under duress) and whose heart is sound with belief in Imaan, but he whose heart is open with kufr, upon them is Anger from Allaah."*

2. *"Indeed carrion, blood and the flesh of swine has been made haraam for you, and that which has been slaughtered (in any name) other than (The Name of) Allaah. Thus (excluded is) he*

> *who is forced, without having desire or surpassing the bounds, indeed Allaah is Most Forgiving, Most Merciful."*

There are five stages under the category of necessity:

Dharoorat (necessity)

This is defined as such that if the impermissible thing is not used or consumed, then one will be destroyed or be brought near death. This will be an absolute necessity, and in such cases, the use of haraam and impermissible things will become permissible, whilst adhering to a few preconditions.

Haajat (need)

This means that if the person does not make use or consume the haraam thing, then his life will not be endangered but he will undergo severe hardship and difficulty. This is not a matter of dire urgency, hence in such cases the Shariah has granted leniency and ease in matters of fasting, Salaat, cleanliness, etc. Nevertheless, in such conditions, the haraam things which have been declared so in Qur`aanic *nass* will not become permissible and halaal.

Manfa`at (benefit)

This is when the use of a thing will give benefit to the physical body, but abstinence therefrom will not cause any harm or difficulty, nor will it endanger a life. For example, sumptuous, wholesome and delicious foods. This will not make any haraam halaal nor will it warrant the breaking of a fast. If one is able to acquire such things in a pure and halaal way, then one may do so and utilise the same, otherwise one should adopt patience.

Zeenat (beauty)

This is those things which offer no benefit or strength to the body, but are merely cosmetic and whimsical. For such things it is obvious that impermissible things never become permissible.

Fuzool (waste and extravagance)

This is where the permissible limits of *Zeenat* are surpassed. The ruling of this is clear, that instead of paying any consideration to such things, the Ahaadith have actually opposed and criticized *Fuzool*.

Mas`alah:

Whilst eating a person gets choked upon a morsel of food and besides wine there is no other halaal drink available. Now if this morsel does not go down the throat, then there is a fear of that person losing his life, in such a case there is consent to take one gulp of the wine.

Mas`alah:

If A is indebted to B for a certain amount and A does not want to pay B, then if B has control or is able to acquire the same type of commodity belonging to B, he may take therefrom (only to the extent of the debt), even without A's happiness and pleasure.

Of those things which become permissible in times of necessity, only that much which will remove the necessity is permitted

Mas`alah:

A doctor can only look at that part of the patient's body which is absolutely necessary.

Mas`alah:

When an excuse or allusion may suffice, then even in extreme circumstances, it will be impermissible to take a false oath.

---Making an allusion here would mean that a person speaks what to himself is the truth, whereas to the next person it would be a lie. For example, if Zaid says that Khaalid is his brother, meaning him to be his Muslim brother, whereas the listener thinks it to be a real brother, and he is

aware that the father of Zaid and Khaalid are different. Knowing this, he knows that Zaid is speaking a lie.

Law #7

"Harm to an individual will be borne in favour of avoiding a general harm."

Mas`alah:

If the grain sellers sell their goods at exorbitant prices, then the State will place a price-control with a fair market value on the goods, in order to safeguard the interests of the masses.

Mas`alah:

When a food merchant hordes and stockpiles a commodity, whereas the consumers are in need for that particular item and there is a demand for it, and he does not bring it into the marketplace, then the State can force him to take out this commodity and sell it.

Mas`alah:

A restraint can be placed upon a quack doctor.

Mas`alah:

Some hawkers sit at the roadside selling their wares, thereby restricting the pathway and making passing difficult for others. Such hawkers can be prevented from sitting at the roadsides and making business.

Law #8

"If one of the two (harms) is worse and more severe than the other, then the severe one will be eradicated in the stead of the lighter one."

Mas`alah:

If one person's chicken swallowed the gem of another person, then it will be seen whether the value of the chicken is more or that of the gem. The item which is greater in value (for example in this case, the gem), its owner will be given the chicken and he will have to compensate the owner of the chicken with its value.

Mas`alah:

If a pregnant woman dies and the baby in her womb is alive, then her stomach will be opened and the baby taken out.

Law #9

"Preference will be given to averting harm rather than gaining benefit."

The object here is that if there is a clash between benefiting and harm, then the general rule will be to rather avoid the harm instead of reaping the benefit. The reason being that just as the Shariah has laid stress on carrying out the prescribed injunctions, it has laid an even greater stress on avoiding the prohibitions of the Shariah. It is for this reason that Nabi (sallallahu alaihi wasallam) said, *"If you are instructed with something, then do therefrom what you are able to, but if you have been prohibited from something, then abstain therefrom (totally)."*
Similarly, there is another narration, *"To abstain from the smallest thing which Allaah Ta`ala had prohibited from, is better than the Ibaadat of the entire men and jinn."*

This is the reason why in times of difficulties it becomes permissible to leave out the *Waajib* acts, but the execution of prohibited acts, especially major sins, never becomes permissible.

Mas`alah:

If a man has to make *Istinjaa* (cleanse himself after relieving the call of nature), then even if he is at the side of a river, but there is no way he can

conceal himself from others, then he will have to delay his *Istinjaa* (for a more suitable opportunity).

Mas`alah:

If a woman needs a *Waajib* Ghusal, but there is no means for her to take the bath whilst concealing herself from men, then she has to delay this bath.

Mas`alah:

It is Masnoon to gargle the mouth and place water into the nostrils as far as is possible when taking a bath, but excessiveness in these acts is *Makrooh* for one who is fasting.

Mas`alah:

To make masah of the beard in wudhu is Masnoon, but to do so in the state of *Ihram* is *Makrooh.*

However, there are times when compared to avoiding a harm, it is preferable to reap a benefit. As it is mentioned in a Hadith that when one intends reconciling between two parties, then if one has to mention something which is contrary to the truth, it will not be counted as a lie.

There are a few instances where speaking a lie will be permitted:

1. Reconciling between two parties.
2. In battle.
3. In order to prevent an argument with one's wife.
4. In order to procure one's valid right and to prevent oppression.
5. If an immature girl was given in marriage by a *Wali* other than her father or grandfather, then when she attains maturity, she has the right to either maintain the marriage or to have it annulled. Now if such a girl starts menstruating at night, and in the morning she makes the claim that *"I have just now seen the blood, and I hereby annul the marriage"*, then it will be permitted for her.

6. In order to save a life. For example, if someone with a scowl of displeasure and anger, asks of another whether he has seen Zaid, and it is known that he is seeking Zaid in order to unjustly harm (kill) him, then even if the questioned knows the whereabouts of Zaid, he replies in the negative.

Law #10

"General customs and habits will be taken into consideration."

The proof of this Law lies in the statement of Hadhrat Abdullaah Ibn Mas`ood (radhiallahu anhu), *"That which the Muslims consider as good, it is good in the Sight of Allaah."*

The meaning here is that whatever the Muslims regard as being good, and it is not contrary to the clear nass of the Qur`aan Majeed and Hadith, neither does it conflict with the principles of Deen, then it will be considered. Foe example:

1. It is our custom to only eat the head of sheep and goats and not that of camels. Now if a person takes an oath that he will never eat the head of an animal, then if he eats the head of a goat or sheep, his oath will be regarded as having been broken, not so if he eats the head of camel. In essence, the custom of the locality will be taken into consideration and the person's oath will be specific for sheep and goat's head.
2. If a person takes an oath that he will never set a foot in the house of Zaid. Since the placing of the foot is regarded as entering, hence in the light of the Shariah his oath will be taken as entrance into the house. Therefore, if he enters Zaid's house, he will have broken his oath, but if he stands outside Zaid's house and places his foot on the threshold, then his oath will not be broken.
3. Salaat is broken by *Amal-e-Katheer*. *Amal-e-Katheer* is that act which according to common knowledge if one sees another who is in Salaat doing, then he (the onlooker) will not think the perpetrator to be performing Salaat. For example, if a person

does something whilst in Salaat using both his hands, or he lifts his hands to scratch himself thrice during one *Rukn* of Salaat, etc.

4. It is the custom amongst some families and tribes that the jewellery which is given to the bride by the groom's family is given to her and it becomes her possession, whereas it is the custom of others that it is given to her as a loan or temporarily. If at the time of giving the jewellery it is not specifically mentioned how it is given to her, then the prevailing custom will be considered.

Note:

Those things which are Bid`ah or they fall under the description of Bid`ah, or they are clearly forbidden acts in the Shariah, will never become good acts by the mere acceptance thereof of the Muslims. Such things are not considered according to the custom and habits of people.

Law #11

"The governor will govern in the interests of his subjects."

The proof for this Law lies in the following:

a). Hadhrat Umar (radhiallahu anhu) said, *"I regard myself as the guardian of an orphan with regards the wealth of Allaah Ta`ala (Baitul Maal). When I am in need, then I take therefrom and when my condition eases, then I return whatever I have taken. When I have acquired independence, then I abstain therefrom."*

b). Hadhrat Umar (radhiallahu anhu) delegated the duty of overseeing Salaat and matters of war to Hadhrat Ammaar Bin Yaasir (radhiallahu anhu), the matters of law and Baitul Maal to Hadhrat Abdullaah Bin Mas`ood (radhiallahu anhu), and the matters of land and surveying to Hadhrat Uthmaan Bin Haneef (radhiallahu anhu). Keeping the needs of each of them in front of him, he stipulated for them the meat of one goat from the Baitul Maal. He stipulated ½ the goat and the stomach for Hadhrat

Ammaar Bin Yaasir (radhiallahu anhu), ¼ to Hadhrat Ibn Mas`ood (radhiallahu anhu) and ¼ to Hadhrat Uthmaan bin Haneef (radhiallahu anhu). He then said to them, *"I consider you and myself as the guardian of an orphan with regards the wealth of the Baitul Maal. Allaah Ta`ala has said, 'He who is wealthy should abstain therefrom (from taking from the wealth of the orphan), and he who is poor, should eat therefrom with diligence.' I take an oath by Allaah, I do not desire that a goat be taken from any locality daily, such that their deterioration occurs swiftly."*

Meaning here that if no effort was made to increase the crops of the nation, and only spending therefrom was effected, then it will eventually lead to its downfall. Just like the wealth of an orphan, if it is left stagnant and no effort is made to increase on it, but rather amounts are only extracted therefrom, then eventually, it will be diminished.

Mas`alah:

If any land is conquered by the Muslims and the governor issues an instruction that a certain portion of the land be used for a Masjid or that it be made a trade area, then this instruction will only be carried out if the execution thereof will not hamper the free movement of people and if it does not cause inconvenience and difficulties to others. If a place is conquered by means of a treaty, then the land will remain in the possession and use as it was previously, and the Muslim governor does not have any right to change the ownership of the land as he wishes.

Law #12

"Hudood (divinely prescribed punishments) will fall away when there is doubt."

Hadhrat Abu Hurairah (radhiallahu anhu) reports that Nabi (sallallahu alaihi wasallam) said, *"Circumvent (try to avert) Hudood to the best of your ability."*

Hadhrat Aishah (radhiallahu anha) reports that Nabi (sallallahu alaihi wasallam) said, *"Avert Hudood from the believers as much as you can. If*

you find, for a believer, a loophole, then grant him freedom. It is indeed better for the governor to mistakenly forgive someone than to mistakenly punish someone."

It is stated in *Fat-hul Qadeer* that there is unanimous consensus amongst all the Fuqahaa that *Hudood* is removed if there is doubt. The Hadith which has been narrated with regard to this is authentic and agreed upon.

Some examples of doubt:

1. Doubt with regard to place/time/occasion

a). For example, Nabi (sallallahu alaihi wasallam) once said to someone, *"You and your wealth belong to your father."* This Hadith creates this doubt that the slave-girl of the son belongs to the father. Based on this, if the father has intercourse with the slave-girl of his son, then he (the father) will not be punished for *Zina.* The slave-girl of the son was the place of *Zina*, but since there was doubt in this, the *hadd* falls away.

b). *Talaaq-e-Baa`in* is effected with a *Talaaq-e-Kinaayah*, however since most Sahaabah (radhiallahu anhum) say this and others say that *Talaaq-e-Raj`i* is effected, which means that the bond of Nikah is not broken until the end of the *Iddat*, hence due to this difference, there is always the doubt that such a divorced woman is still halaal for her husband.

2. Doubt in the act

This would apply to that person who has a doubt with regard to halaal and haraam. He understands to be halaal when there is no certain proof for it.
For example, a husband and wife use the things of each other without any restraint or formalities. Each one of them derives benefit from the possession of the other and does not deem it impermissible. With this 'understanding' in mind, a man has intercourse with the slave-girl of his wife thinking it to be perfectly in order. This doubt of the husband is not completely unfounded and he will be given the benefit of the doubt.

However, if he had intercourse with this slave-girl of his wife, knowing it to be impermissible for him, then since there is no doubt in his mind regarding this, he will be punished for *zina*.

This is an example of doubt in an action, because the doubt existed in the action being halaal or haraam. The issue of whether the slave-girl was halaal for him or not, is not one of doubt in the Shariah. That is, the Shariah ruling on the matter is clear, the doubt arose in the mind of the perpetrator with regard to his action.

3. Doubt in the transaction

Imaam Abu Hanifah (rahmatullahi alaihi) has granted consideration to this issue. According to Imaams Abu Yusuf and Muhammad (rahmatullahi alaihima), there is no such a thing as doubt in transacting. For example, if a man makes Nikah with a woman in the absence of any witnesses. Now, even if he is aware that this is not permissible, nevertheless, if he has intercourse with this woman, the penalty of *zina* will not be carried out on him, because, after all, he did make a Nikah (albeit a mock one). The contract of Nikah validates the *hillat* (permissibility of intercourse). However, in this case, although there were no witnesses, and there was actually no *hillat*, nonetheless, this does become a case of doubt with regard to *hillat*. So in this case, although *Ta`zeer* (another form of punishment stipulated by the Qaadhi) may be passed, *hadd* of *zina* cannot be carried out.

Law #13

"Benefit is with responsibility."

It is stated in a Hadith that a person bought a slave. After some time, the purchaser found some defect in this slave. He brought the case to Nabi (sallallahu alaihi wasallam), who ruled that the slave be returned to the seller. The seller complained that the buyer had derived benefit from the slave during this period. Nabi (sallallahu alaihi wasallam) said, *"Benefit is with responsibility."*

Mas`alah:

According to Saahibain (rahmatullahi alaihima), if a debtor gave the amount owing to the one who stood surety for him and the latter prior to handing the money over to the creditor, invested the money and derived some (halaal) benefit therefrom. The profit attained from this is halaal for him (the one who stood surety). The reason for this is this Law.

CHAPTER NINE

PRINCIPLES OF IJTIHAAD

Definition of *Ijtihaad*

It is the expansion of the Faqeeh of his ability, capability and power in deducing a zanni (conjectural) Shar`i ruling.

Definition of a *Mujtahid*

That Faqeeh who has the ability of making *Ijtihaad* is known as a *Mujtahid*. There are two types of *Mujtahids*; one is a *Mujtahid-e-Mutlaq*, who is able to make *Ijtihaad* on any issue which is presented to him and there is a *Mujtahid Fil Ba`adh*, who is only able to make Ijtihaad on certain issues.

The conditions of Mujtahid-e-Mutlaq

The under-mentioned qualities are necessary in a *Mujtahid-e-Mutlaq*:

1. Firstly, his Imaan must be intact and strong, because Imaan is a condition for any Ibaadat. Secondly, is *Ijtihaad*, where he has the ability to extract Shar`i laws and rulings. It is imperative that he has the recognition (and fear) of Allaah Ta`ala. He must also be fully aware of the means of the propagation of the Laws of Allaah Ta`ala was i.e. Nabi (sallallahu alaihi wasallam). He must also be aware of the Qualities of Allaah Ta`ala.

2. He must be fully *au fait* with the text, meaning and rulings of the Qur`aan Majeed, because this is the basis of all laws. A condition is that he should at least be well versed in those portions in the Qur`aan Majeed which deal with rulings in the Deen. Some have stated this include at least 500 Aayaat.

3. He should also be familiar with the text and *Sanad* (chain of narrators), of the Sunnat-e-Rasool (sallallahu alayhi wasallam). He should know their meanings and interpretation. He should

also know which Hadith is *Mutawaatir, Mash-hoor* and *Khabar-e-Waahid*. He must also be aware of the condition of the narrators in Ahaadith. Some have stated that the relevant Ahaadith are 1200.

4. He should be aware of the occasions and instances of *Ijma*, so that he does not make *Ijtihaad* contrary to any *Ijma*.

5. He should have an adequate knowledge of *Ilm-e-Usool*.

6. He should have that much knowledge regarding *Nahw(Arabic grammar), Sarf (etymology)* and *Lughat (vocabulary)*, whereby he is able to properly understand the meaning of the Qur`aan Majeed and Sunnat.

The occasions of necessary *Ijtihaad*

There are four types of Masaa`il;

1. Those Masaa`il regarding which there is apparent 'contradiction' in the Aayaat of the Qur`aan Majeed and Ahaadith. For example, in some Ahaadith there is an instruction for the Muqtadis to recite Surah Faatihah behind the Imaam, and in some narrations there appears to be prohibition for it. In order to clarify and unravel this 'contradiction', it is necessary for the *Mujtahid* to make *Ijtihaad.*

2. In those Masaa`il wherein there is no apparent 'contradiction' in the *nusoos (*plural of *nass),* but there are various possibilities of meaning and interpretation, due to words which have various implications. It is necessary to make *Ijtihaad*, in order to minimise the possibilities and come to some definite ruling.

3. In those Masaa`il regarding which there is no clear injunction in the Qur`aan Majeed and Hadith. In such matters the *Qiyaas* of the *Mujtahid* is important.

4. There is no need for *Ijtihaad* in such Masaa`il wherein there is no 'contradiction' nor multiple meanings in the *nusoos*. That is, those Masaa`il which are as clear as daylight, like Salaat, Zakaat, fasting in the month of Ramadhaan, the obligation of Hajj, the total impermissibility of alcohol, adultery, etc.

The reality of the power of Ijtihaad

1. *"It has been reported from Hadhrat Ibn Mas`ood (radhiallahu anhu) that Nabi (sallallahu alaihi wasallam) said, 'The Qur`aan has been revealed in seven dialects. Every Aayat has a zaahir (apparent meaning) and baatin (hidden) and every limit has its uniqueness' (i.e. for the apparent meaning, the knowledge of Arabic grammar is imperative and for the hidden meaning, the power of insight and understanding is needed)."*

2. *"It has been reported from Hadhrat Urwa Bin Zubair (rahmatullahi alaihi), who says, 'I asked (Hadhrat Aishah - radhiallahu anha)regarding the Aayat, 'Indeed Safa and Marwa are from amongst the Signs of Allaah, and he who makes Hajj of the House (Kaabah), or Umrah, there is no harm upon him that he make Tawaaf of them.' I said, 'By Allaah, (It seems that) there is no sin on anyone who does not make Tawaaf of Safa and Marwa.' She said, 'Evil is that which you have spoken. O my sister's son, had the meaning been what you understand it to be, then it(the Aayat) would have been, 'There is no harm upon him who does not make Tawaaf of them'"*

3. *"It has been reported from Hadhrat Ibn Mas`ood (radhiallahu anhu) that the Sahaabah (radhiallahu anhum) are the most virtuous of this Ummat. Their hearts are the most pure, their knowledge is the most in-depth, and their formalities were the least."*

4. *"It is reported from Hadhrat Abu Juhaifah (radhiallahu anhu) that he asked Hadhrat Ali (radhiallahu anhu), 'Do you have any*

(written) matter other than what is in the Qur`aan Majeed?' He replied, 'I take an oath on that Being Who has split the seed and given life to the soul, we do not have any such thing which is not in the Qur`aan Majeed, except that understanding which Allaah Ta`ala bestows upon a person regarding the Qur`aan Majeed."

5. *"It has been reported from Hadhrat Zaid Bin Thaabit (radhiallahu anhu) that during the era of Hadhrat Abu Bakr (radhiallahu anhu), he (Hadhrat Zaid) was called for on the occasion of the battle with the people of Yamaamah. He says, 'When I reached there I saw that Hadhrat Umar (radhiallahu anhu) was also seated. Hadhrat Abu Bakr (radhiallahu anhu) mentioned that Hadhrat Umar (radhiallahu anhu) came to him and informed him that during the expedition of Yamaamah, many Qurrah (Huffaaz) were martyred. And that he feared that if this has to continue then a large portion of the Qur`aan Majeed would be lost. Therefore, his opinion was that I compile and gather the Qur`aan Majeed. I asked Hadhrat Umar (radhiallahu anhu) how I could do something which was never done during the era of Nabi (sallallahu alaihi wasallam). He replied that this is a very important and much needed task. He continued saying this, until, I also acquired contentment of heart regarding the matter as he had.'"* [Bukhari]

A few pointers are derived from these five Ahaadith:

- From the first Hadith we see that the Qur`aan Majeed is clear regarding some meanings whilst others are concealed and deeper. This same premise holds for the Ahaadith, where some meanings are apparent and clear whilst there are hidden and deeper meanings to it. The third Hadith also corroborates this point. The clear and apparent meaning is known to both the teacher and student (i.e. the Sahaabah - radhiallahu anhum - and their students – Tabieen - rahmatullahi alaihim). But since the Sahaabah (radhiallahu anhum) were more virtuous and had deeper insight, they understood a deeper meaning than the apparent.

- From the second Hadith we understand that the insight of people varies with regard to understanding the Qur`aan Majeed and Hadith. The understanding of some stops with the apparent meaning, whereas that of others goes to the deeper concealed meanings. In this Hadith, the deep point of the Aayat, albeit not so concealed, was not understood by Hadhrat Urwa (rahmatullahi alaihi), whereas Hadhrat Aishah (radhiallahu anha) understood it.

- From the third Hadith we realise that understanding and insight is not dependant on status and virtuousness. In fact, it is a special rank, which owing to one understanding its being deeper in meaning, attains the status of honour and virtuousness.

- From the fourth Hadith we realise that deeper understanding and insight is not something which can be acquired by one's own effort. It is something which is divinely gifted to one. Allaah Ta`ala grants it to whosoever He pleases.

From the above we understand that power of deep insight and understanding is a divinely-gifted rank, wherewith the owner thereof is able to extract and realise the deep and concealed meanings in the Aayaat and Ahaadith. They are made aware of the secrets whereof others are blissfully ignorant of.

This is the power of *Ijtihaad*, whereby deeper insight, understanding, opinion, *Ijtihaad*, research, etc. are found.

The proof for the permissibility of *Ijtihaad*

The first occasion for Ijtihaad: The proof for making Ijtihaad for that issue which are not *mansoos*

1. The Hadith regarding Hadhrat Ma`aaz (radhiallahu anhu) which had passed previously, when he was asked by Nabi (sallallahu alaihi wasallam) what ruling he would pass in matters which cannot be found in the Qur`aan Majeed or Sunnat. He replied that he will make Ijtihaad and act on his opinion (after research

and contemplation). This answer of his was like by Nabi (sallallahu alaihi wasallam), who made Shukr to Allaah Ta`ala.

2. *"It has been reported by Taariq that a person who was in a state of major impurity (janaabat) did not perform his Salaat. He came to Nabi (sallallahu alaihi wasallam) and related this to him who replied that he had done the correct thing. Another person who was also in the state of janaabat, made tayammum and performed Salaat. When he related this to Nabi (sallallahu alaihi wasallam), then Nabi (sallallahu alaihi wasallam) gave him the same answer as he had given the former person."* The Ijtihaad and Qiyaas in this Hadith is clearly evident. If there was clear *nass* on any of these issues, then there would be no question of them asking Nabi (sallallahu alaihi wasallam) after having carried out the respective act. We note that both these persons did what in their opinion was the correct thing to do and informed Nabi (sallallahu alaihi wasallam) thereof, who confirmed both their acts as being correct. There is an accepted principle that if Nabi (sallallahu alaihi wasallam) heard of anything and he did not reject or refute it, in fact, if he had clearly sanctioned it, then this is a proof of the permissibility of such actions. Nevertheless, it is established that the Sahaabah (radhiallahu anhum) made *Qiyaas* even during the era of Nabi (sallallahu alaihi wasallam) and he consented to it. Note: Although in the above-mentioned Hadith Nabi (sallallahu alaihi wasallam) consented to the actions of both the persons, it does not mean that even now, after the order of tayammum has been promulgated in the Shariah by the Qur`aan Majeed and the Sunnah, that a person still has the choice of whether to make tayammum or not and whether he has the choice to either perform Salaat or not. In other words, now that tayammum is part of the Deen a person, who does not have access to water or is unable to use it, must make tayammum and must necessarily perform Salaat.

3. *"It has been reported from Hadhrat Amar Bin Aas (radhiallahu anhu) who says, 'I once had a nocturnal emission during a cold*

night whilst on the expedition of Salaasil. I feared that if I had to take a bath I would perish (due to extreme cold), hence I made tayammum and joined my companions for Salaat. They then informed Nabi (sallallahu alaihi wasallam) of the matter. He said to me, 'O Amar, you had led the Salaat whilst in the state of janaabat?' I informed him (sallallahu alayhi wasallam) of what prevented me from taking a bath, and said, 'I have heard the Aayat wherein Allaah Ta`ala says that we should not kill ourselves and that indeed He is Most Merciful to us.' Nabi (sallallahu alaihi wasallam) then smiled and said nothing further.'" This Hadith is also a very clear proof for Ijtihaad and *Qiyaas*. Upon the query of Nabi (sallallahu alaihi wasallam), Hadhrat Amar (radhiallahu anhu) even related his proof, which Nabi (sallallahu alaihi wasallam) accepted.

The second occasion for Ijtihaad: the proof for opting one of the many possibilities in an ambiguous Hadith

"It has been reported from Hadhrat Ibn Umar (radhiallahu anhu) that Nabi (sallallahu alaihi wasallam) said to the Sahaabah (radhiallahu anhum) on the Day of Ahzaab, 'None of you should perform Asr Salaat except at Bani Quraidha.' Some of them were still on the road when the time for Asr Salaat came. (There was a difference of opinion amongst them) Some of them said that they will not perform Salaat until they reach the destination, whilst others decided that they will perform their Salaat (since Nabi (sallallahu alaihi wasallam) did not mean that they should not perform their Salaat but rather that they hasten and try to reach the place before the time of Asr). When this incident was reported to Nabi (sallallahu alaihi wasallam), he did not rebuke nor chastise any of them." [Bukhari]

From this incident we see that some of the Sahaabah (radhiallahu anhum) utilised the power of Ijtihaad and understood the meaning of Nabi (sallallahu alaihi wasallam)'s statement to mean something else other than the actual literal meaning. Nabi (sallallahu alaihi wasallam) did not chastise them for not acting upon the literal meaning of his statement, and they were not accused of not acting upon the literal meaning of the Hadith.

The third occasion for Ijtihaad: The proof for practicing upon the causative factor of the ruling of the Hadith

"It has been reported from Hadhrat Anas (radhiallahu anhu) that a man was accused with the Umme-Walad (slave-girl who bore a child for the master) of someone in the family of Nabi (sallallahu alaihi wasallam). Nabi (sallallahu alaihi wasallam) instructed Hadhrat Ali (radhiallahu anhu) to mete out the punishment to him. When Hadhrat Ali (radhiallahu anhu) came to this person, (who was cooling off in a well and when he was taken out) Hadhrat Ali (radhiallahu anhu) noticed that he was castrated (i.e. he did not have a male organ). Hadhrat Ali (radhiallahu anhu) did not mete out the punishment upon him and informed Nabi (sallallahu alaihi wasallam) of the matter, who in turn, commended the action of Hadhrat Ali (radhiallahu anhu)."

In this Hadith the instruction of Nabi (sallallahu alaihi wasallam) was clear and unambiguous. However, Hadhrat Ali (radhiallahu anhu) understood the causative factor in the instruction of Nabi (sallallahu alaihi wasallam) and found it to be absent in the man, hence he did not carry out the instruction of Nabi (sallallahu alaihi wasallam). Nabi (sallallahu alaihi wasallam) not only accepted this action of Hadhrat Ali (radhiallahu anhu), but he praised it.

The fourth occasion for Ijtihaad: The proof for understanding a ruling of Nabi (sallallahu alaihi wasallam) which is apparently unrestricted to be restricted

"It has been reported from Hadhrat Anas (radhiallahu anhu) that Nabi (sallallahu alaihi wasallam) was mounted on a conveyance and Hadhrat Ma`aaz (radhiallahu anhu) was seated behind him (sallallahu alayhi wasallam). Nabi (sallallahu alaihi wasallam) said, 'O Ma`aaz!', Hadhrat Ma`aaz (radhiallahu anhu) replied, 'I am present and at your service.' This was called out and replied to thrice. Thereafter Nabi (sallallahu alaihi wasallam) said, 'There is not anyone who with a sincere heart testifies that there is no deity other than Allaah and that indeed Muhammad is the Rasool of Allaah, except that Allaah Ta`ala makes The Fire haraam upon him.' He then asked, 'O Rasulullaah (sallallahu alayhi wasallam)! Should I

not inform the people (hereof) so that they may rejoice?' Nabi (sallallahu alaihi wasallam) said, '(No!). For then they will sit back and bank on this.' Hadhrat Ma`aaz (radhiallahu anhu) informed the people about this (Hadith) at the time of his death out of fear of sinning (in having concealed a matter of Deen)."

This Hadith clearly gives the prohibition of informing the people regarding a certain matter. This prohibition is unrestricted and does not apply to only a certain place, person or time. Nevertheless, Hadhrat Ma`aaz (radhiallahu anhu) understood this prohibition to be an advise from Nabi (sallallahu alaihi wasallam) which applied only to that time.

"It has been reported by Hadhrat Abdur Rahmaan Salami (rahmatullahi alaihi) who states that Hadhrat Ali (radhiallahu anhu) was delivering a sermon and in that sermon he said, 'There was a slave-girl who belonged to the family of Nabi (sallallahu alaihi wasallam) and she committed adultery. Nabi (sallallahu alaihi wasallam) instructed me to lash her, and when I came to her, I found that she was in nifaas (i.e. she just recently gave birth). I feared that if I had to lash her, she would die, so I did not lash her. I informed Nabi (sallallahu alaihi wasallam) of my decision, and he consented to it, saying, 'Leave her now, until she regains her health.'"

Notwithstanding the fact that this Hadith was unrestricted and did not have any conditions attached therewith, nevertheless, Hadhrat Ali (radhiallahu anhu) utilised his power of Ijtihaad and thought that this woman would not be able to withstand a lashing. He attached this reasoning of his to the instruction of Nabi (sallallahu alaihi wasallam). He acted on this reasoning of his and Nabi (sallallahu alaihi wasallam) accepted and commended his decision.

It is not permissible for that person who does not have the capability of making Ijtihaad to do so

It is possible that a person may be a Haafidh of Hadith, but he does not have the capability of making Ijtihaad. The proof for this is:

1. *“It has been reported by Hadhrat Ibn Abbaas (radhiallahu anhu) who said that a person during the era of Nabi (sallallahu alaihi wasallam) was wounded and then he had a nocturnal emission. His companions instructed him to take a bath. He took a bath and passed away. When this news reached Nabi (sallallahu alaihi wasallam), he said, ‘Those people (the deceased’s companions) have killed him. Is not asking (those who know), the cure for ignorance? It was sufficient for him to have made tayammum or place a bandage over his wound and wash the rest of his body.’”* [Abu Dawood]

That man’s companions understood the Aayat which instructs bathing when in the state of janaabat to be general and applicable to all conditions. They took the Aayat which grants respite to the injured and traveller to be specific and of a lesser degree. Nabi (sallallahu alaihi wasallam) censured this decision of theirs, not because he disapproved of *Qiyaas* or Ijtihaad, because the proof for this has already passed above, rather he indicated to this fact that (in this case) those who made the Ijtihaad, did not have the capability (and expertise) to do so. Because of this, they were unqualified to make *Qiyaas* or Ijtihaad.

2. *“It has been reported from Hadhrat Ataa Bin Yasaar (rahmatullahi alaihi) who says that a person asked Hadhrat Ibn Amar Bin Aas (radhiallahu anhu) regarding a man who divorced his wife thrice, before consummation. Hadhrat Ataa (rahmatullahi alaihi) says, ‘I replied that only one Talaaq is effected for a virgin’. Hadhrat Abdullah said to me that I am just an orator (i.e. I am not able to pass a Fatwa). He said that one Talaaq will make her Baa`inah and three will make her haraam until she marries another husband (i.e. makes halaalah).”* [Maalik]

Notwithstanding Hadhrat Ataa (rahmatullahi alaihi) being such a great Muhaddith and Aalim, Hadhrat Abdullaah (radhiallahu anhu) disregarded and discarded his Fatwa indicating that he did not have the ability to make *Qiyaas* or Ijtihaad. The crux of the matter is that having knowledge and

relating Ahaadith is one thing, and to give Fatwa and make Ijtihaad is purely another.

3. *"It has been reported by Hadhrat Ibn Mas`ood (radhiallahu anhu) that Nabi (sallallahu alaihi wasallam) said, 'May Allaah keep fresh that servant of His who listens to my Hadith and safeguards it and after memorising it he passes it on to others. (Because) Some who carry knowledge (those who relay the message to others) are not Faqeehs (i.e. they do not fully understand it), and some carry the Fiqh (Ahaadith) to those who understand it better than them (the one who relayed the message)."* [Tirmidhi/Abu Dawood]

This Hadith is clear proof that some Muhaddith, who are Haafidh of many Ahaadith, are not necessarily Faqeehs, where they are able to make Ijtihaad and *Qiyaas*.

Can a Mujtahid-e-Mutlaq be found in present times also?

There is no impossibility or impediment for the existence of the ability of Ijtihaad in any era or place, however experience and testification bears witness to the fact that the ability of Ijtihaad which is to be found in a Mujtahid-e-Mutlaq, has long been absent. If in this present era there happens to be a Mujtahid-e-Mutlaq, and if his claim and existence is satisfactorily substantiated by his work and research, then there would be no reason to reject his being a Mujtahid.

If any person makes the claim of being a Mujtahid-e-Mutlaq, then to put him to the test would be very simple. Any Fiqh Kitaab, the text of which is devoid of written proofs, must be presented to him and any 100 Masaa`il must be extracted therefrom and he should be asked to substantiate all these by citing Qur`aan Majeed and Hadith *nass*. The principles which he uses in his substantiation must also be proven by him from the Qur`aan Majeed and Hadith. When he has completed answering all this, then his answers and that of the Fuqahaa must be matched. This should make matters clear.

Nevertheless, according to the rational observers it is established that the treasure and ability of Ijtihaad has been lost after four centuries (since the era of Nabi - sallallahu alaihi wasallam). An example of this can be taken by comparing the excellent memories which Allaah Ta`ala had bestowed upon the Muhadditheen of the past, and one will note that this is virtually non-existent in present times. (If Allaah Ta`ala wills that a Mujtahid be born in the future and he can be proven to be genuine, then as mentioned previously there is no impossibility in this).

Above it was mentioned that the ability of Ijtihaad is presently non-existent and has been so for the past many centuries, this refers to the high standard of Ijtihaad which was present in the past.

Is there no need for Ijtihaad in present times?

To have that level of Ijtihaad where the established principles of a Mujtahid-e-Mutlaq are used in order to solve Masaa`il regarding contemporary issues and then to take the proofs of two sides and opt for one of them, is not non-existent. Personalities with that much of Ijtihaadi ability can be found in every era.

What is the solution to contemporary issues and new conditions which arise?

For this are the following means:

1. By using the established principles of one's Math-hab, the contemporary issues can be solved by establishing proofs from the Qur`aan Majeed and Ahaadith.
2. Those Masaa`il which become confusing due to the changing of customs and habits of people, then the Ulama will contemplate over these habits and cultures and investigate the same.
3. If there appears a great and pressing community or social need, then a specific Mas`alah of one particular Imaam of Fiqh or Mujtahid will be opted for. Like for example, in the case of a woman whose husband has been missing for a long period, the

latter Hanafi Ulama have taken the ruling of the Maaliki Math-hab in this regard.

Today also, if the Ulama find there to be a pressing and community need for a ruling, then the Ulama will look at the rulings of the four Imaams of Fiqh and they will make a ruling which conforms with the view of any one of the Imaams. Nevertheless, one needs to exercise caution in this regard and the ruling of the Imaam which is taken must not be taken in isolation, but all its relevant and associated principles and laws must also be considered. Another thing is that one must not merely form his own view on a matter and issue a ruling without having consulted with other reliable Ulama on the matter.

THE MUJTAHID-E-A`ZAM, IMAAM ABU HANIFAH (RAHMATULLAHI ALAIHI)

There were numerous Mujtahiddeen and all of them are worthy of respect and honour, however, since the Fiqh of Imaam Abu Hanifah (rahmatullahi alaihi) is generally practiced in our midst, we will look briefly into his life.

Imaam Abu Hanifah (rahmatullahi alaihi), whose name was Nu`maan Bin Thaabit, was born in the year 80 A.H., which was an era of the Sahaabah (radhiallahu anhum) and it was an era of great blessings as well. Imaam Saheb (rahmatullahi alaihi) himself relates that he met with seven Sahaabah (radhiallahu anhum), amongst them was Hadhrat Anas Bin Maalik, Hadhrat Abdullah Bin Juz Zubaidi, Hadhrat Jaabir Bin Abdillaah, , Hadhrat Ma`qal Bin Yasaar, Hadhrat Waathilah Bin Asqa` and Hadhrat Aishah Binti Ajrad (radhiallahu anhum). This makes Imaam Saheb (rahmatullahi alaihi) a Tabi`ee. This is such an honour which is not enjoyed by of the other three Imaams of Fiqh.

He passed away in the year 150 A.H. He spent the major portion of 70 years of his life in acquiring Ilm. He spent 18 years in the company of Hammaad Bin Abi Sulaiman (rahmatullahi alaihi), wherein he gained expertise in Fiqh.

Imaam Abu Hanifah (rahmatullahi alaihi) and Ilm-e-Hadith

The Shuyookh and Asaatizah (mentors and teachers) of Imaam Saheb in the field of Hadith are innumerable. He had four thousand Ustaads in Hadith, all of whom were Tabieen. Once when he was asked by the Abbasi Khalifah, Abu Ja`far Mansoor, as to who he acquired knowledge from, Imaam Saheb (rahmatullahi alaihi) replied that he acquired Ilm from the students of Hadhrat Umar (radhiallahu anhu), Hadhrat Ali (radhiallahu anhu), Hadhrat Abdullah Bin Mas`ood (radhiallahu anhu) and Hadhrat Abdullah Ibn Abbaas (radhiallahu anhu). Allamah Suyooti (rahmatullahi alaihi) lists in his Kitaab, *Tabyeedhus Saheefah*, from Allamah Jamaaluddeen Mazi (rahmatullahi alaihi) at least seventy six (76) great, great Shuyookh under whose tutelage Imaam Saheb (rahmatullahi alaihi) acquired Ahaadith. Amongst them are:
Ebrahim Bin Muhammad Muntashir, Hakam Bin Utbah, Hammaad Bin Abi Sulaimaan, Rabi`atur Rai, Ziyaad Bin Ilaaqah, Aasim Bin Kulaib, `Aamir Sha`bi, Abdur Rahmaan Bin Hurmuzul A`raj, Ataa Bin Abi Rabaah, Ikramah, the Mawla (freed slave) of Ibn Abbaas, Qataadah Bin Wa`aama, Ja`far Saadiq, Imaam Zuhri, Muhammad Bin Munkadir, Naafi`, the freed slave of Ibn Umar, Hishaam Bin Urwah, Yahyah Bin Sa`eed Ansari, Abu Is`haaq Sabee`i, etc.

The famous Muhaddith, Imaam Mus`ar Bin Kudaam (rahmatullahi alaihi) – passed away 155 A.H. – states, *"I acquired the knowledge of Hadith together with Abu Hanifah, but he overpowered us (i.e. he excelled in class). When we exercised Zuhd (abstinence), then there too he excelled us. We studied Fiqh with him and his excellence in this field is not hidden from anyone."*

The Imaam of *Jarah Wa Ta`deel (one who deals in critical examination of narrators of Ahaadith)*, Yahya Bin Sa`eed Qattaan (rahmatullahi alaihi), states, *"I take an oath on Allaah, Imaam Abu Hanifah (rahmatullahi alaihi) is the greatest Aalim of this Ummat regarding whatever came from Allaah Ta`ala and His Nabi (sallallahu alaihi wasallam)."*

Mullah Ali Qaari (rahmatullahi alaihi) reports from Imaam Muhammad Bin Sama`a (rahmatullahi alaihi), *“Imaam Abu Hanifah (rahmatullahi alaihi) has recorded more than 70 000 Ahaadith in his compilations.”*

The compilations of Imaam Saheb (rahmatullahi alaihi) refers to whatever he had related and what his students had recorded in their respective works.

Imaam Abu Hanifah’s (rahmatullahi alaihi) sagacity at Ahaadith

1. The famous Muhaddith, Yazid bin Haroon (rahmatullahi alaihi) was once relating statements of Imaam Ebrahim Nakha`ee (rahmatullahi alaihi), when a person asked him, *“Narrate some statements of Nabi (sallallahu alaihi wasallam).”* Yazid bin Haroon (rahmatullahi alaihi) told him, *“O foolish man! This is the interpretation of Nabi (sallallahu alaihi wasallam)’s statements. If you do no understand the meaning, then what are you going to do with the Hadith? People today are only interested in listening to Ahaadith, if you had to spend you time and energy in seeking knowledge, then you would learn the Tafseer and the meaning of Ahaadith. You would study and refer to the works of Abu Hanifah and in this way the interpretation of the Ahaadith would be unravelled before you.”*

2. Ameerul Mu`mineen in Ahaadith, Imaam Abdullah Bin Mubaarak (rahmatullahi alaihi), always used to say to his students, *“You should understand (the study of) Ahaadith and narrations to be necessary, but together with this there is a need for Abu Hanifah, because he understood the meaning of Ahaadith.”* He would also always say, *“Ulama cannot be independent of Abu Hanifah. Even if for nothing else, but most certainly for the Tafseer of Hadith.”*

3. Wakee` Bin Jaraah (rahmatullahi alaihi) used to say to the Muhadditheen, *“O People! You seek Hadith, but not its meaning. In this your lives and efforts are being wasted away. I have the desire that I had at least 1/10 of the Fiqh of Abu Hanifah.”* One day he told the gathering, *“People, listening to*

Hadith without having Fiqh (understanding thereof), does not benefit you. In this way you will not gain anything unless you sit in the company of the students of Abu Hanifah, and they relate to you the Tafseer of the Ahaadith." One day in the gathering of Wakee` a Hadith was presented, whose subject matter was difficult. He stood up and sighed, *"What is the use now of regretting? If only that Sheikh (Imaam Abu Hanifah - rahmatullahi alaihi) (was present), this difficulty would have been solved."*

4. One day someone asked a few questions of A`mash (rahmatullahi alaihi). Imaam Abu Hanifah (rahmatullahi alaihi) was also present in that gathering. Imaam A`mash (rahmatullahi alaihi) asked Imaam Saheb for his view on the questions. Imaam Saheb gave his view, to which A`mash asked, *"What is you proof for this?"* Imaam Saheb told him that the proof of it lies in the Ahaadith which he (A`mash) had taught him. Imaam Saheb (rahmatullahi alaihi) then narrated a few Ahaadith with their *sanads*, and explained the Masaa`il therefrom. Imaam A`mash (rahmatullahi alaihi) was extremely pleased and commented, *"What I had narrated over a few days, you had related in an hour. I never knew that you practiced upon these."* Thereafter he said, *"O group of Fuqahaa, You are (like) the doctors and we are (like) chemists (i.e. we have the stock of medicine, but we cannot administer them for the various illnesses)."*

The authoritativeness and reliability of Ahaadith from Imaam Abu Hanifah (rahmatullahi alaihi)

The famous Muhaddith, Yahya Bin Mu`een (rahmatullahi alaihi) says, *"Abu Hanifah is reliable and trustworthy with regard to narrating Ahaadith. What would be your opinion of that person whose reliability and trustworthiness in relating Ahaadith was sanctioned by the likes of Abdullah Bin Mubaarak and Wakee` (rahmatullahi alaihima)."*

Imaam Abu Hanifah's leadership in Fiqah

1. Imaam Shaafi (rahmatullahi alaihi) stated, *"People are the family of Abu Hanifah (rahmatullahi alaihi) with regards Fiqh."* He also said, *"That person who did not study the Kitaabs of Imaam Abu Hanifah (rahmatullahi alaihi), he has not attained an insight in knowledge, and neither can he become a Faqeeh."*

2. Wakee` (rahmatullahi alaihi) stated, *"I have not found anyone who is a greater Faqeeh than Abu Hanifah (rahmatullahi alaihi)."*

3. Yahya Bin Aadam (rahmatullahi alaihi) states, *"There is a consensus amongst all the people of Fiqh and learned that there is no greater Faqeeh than Abu Hanifah (rahmatullahi alaihi). He has excelled in this field in such depth that none before him had done. This is the reason why Allaah Ta`ala had shown him the way."*

4. Abdullah Bin Mubaarak (rahmatullahi alaihi) says that he saw Hasan Bin Ammarah (rahmatullahi alaihi), who was a great Muhaddith and the Ustaad of Hadhrat Sufyaan Thauri - rahmatullahi alaihi), holding the stirrup of Imaam Abu Hanifah and saying, *"I take an oath on Allaah, I have not seen anyone who was more in-depth and intelligent in Fiqh than him (Imaam Saheb). He was the Imaam of all the Fuqahaa of his era. As for those who criticise him, do so purely out of jealousy."*

The mode of Imaam Abu Hanifah's (rahmatullahi alaihi) Fiqhi research

When the Ustaad of Imaam Abu Hanifah (rahmatullahi alaihi), Hammaad Bin Sulaiman (rahmatullahi alaihi) passed away, his companions forced Imaam Saheb to succeed him, but Imaam Saheb refused. Eventually they reached the decision that ten of them will remain with Imaam Saheb for a year and they will assist and support him in the Fatwa of every Mas`alah

(i.e. that they will, after reflection and research, reach a consensus on each Mas`alah). This arrangement was implemented. Thereafter, the foundation was laid for the codification of Fiqh. It is stated in *Durrul Mukhtaar*, that at the time of this codification of Fiqh, Imaam Saheb had a group of 1000 Ulama with him, of which 40 reached the rank of Ijtihaad. He told them that he had codified and brought in control the laws and principles, and now he requires their assistance. Thereafter, whenever any Mas`alah was presented, he would consult with them. He would listen to whatever Ahaadith or narrations they presented in answer and he would do likewise. In this way, some Masaa`il would take months to solve. Whenever any Mas`alah was resolved, Imaam Abu Yusuf (rahmatullahi alaihi) was charged with recording it.

On one occasion a few Ulama gathered around the great Muhaddith, Wakee` (rahmatullahi alaihi). One of them said, *"In this Mas`alah, Abu Hanifah had erred."* Wakee` (rahmatullahi alaihi) replied, *"How can Abu Hanifah err, when he has (the likes of) Abu Yusuf and Zufar making Qiyaas, Yahya Bin Zaa`idah, Hafs Bin Ghayaath and Hibbaan in Ahaadith, Qaasim Bin Ma`an in Arabic Grammar and eloquence, Dawood Ta`ee and Fudhail Bin Ayaadh in abstinence and piety? How can a person who has the likes of such personalities assisting him, err? Even if he was to err, then these persons would most certainly have corrected him."*

Khateeb Baghdaadi (rahmatullahi alaihi) states, *"The companions of Abu Hanifah (rahmatullahi alaihi) who discussed and solved Masaa`il with him were, Abu Yusuf, Zufar, Dawood Ta`ee, Asad Bin Amar, Aa`fia Audi, Qaasim Bin Ma`an, Ali Bin Mus-hir, Mundil Bin Ali and Hibbaan Bin Ali (rahmatullahi alaihim). Whenever they began discussing any Mas`alah, and if Aa`fia was not present, Imaam Abu Hanifah (rahmatullahi alaihi) would say, 'Do not complete or resolve this Mas`alah until Aa`fia arrives.' When Aa`fia would arrive and he would agree with their views, then Imaam Abu Hanifah would say, 'Now record this Mas`alah.' If Aa`fia did not agree with their views, then Imaam Saheb would prohibit the recording of the Mas`alah."*

The piety and Ibaadat of Imaam Abu Hanifah (rahmatullahi alaihi)

1. Ahmad Bin Bashr and Hafs Bin Ghayaath (rahmatullahi alaihima) said, *"Whichever Aabid we looked at, we found him lacking in matters of halaal and haraam, and whichever Faqeeh we looked at we found him lacking in enthusiasm for Ibaadat, except, Abu Hanifah (rahmatullahi alaihi). Allaah Ta`ala has blessed him with these two qualities to perfection."*

2. Allamah Zahbi (rahmatullahi alaihi) writes, *"It has reached us by Tawaatur, that owing to Abu Hanifah's (rahmatullahi alaihi) excessive Ibaadat and standing at nights for Tahajjud, he would be like a (tent) peg, as he would not move and shake."*

3. Abdullah Bin Mubaarak (rahmatullahi alaihi) states, *"I have never seen a person more fearful (of Allaah Ta`ala) and abstinent than Abu Hanifah (rahmatullahi alaihi). His abstinence was tested in lashes and wealth. That is, at the time when he was being lashed for not taking up the post of a judge, he did not falter and slip even once and as far as wealth was concerned he would exercise caution over every little amount, and if there was doubt, he would give it away in Sadaqah."*

CHAPTER TEN

PRINCIPLES OF TAQLEED

What is Taqleed?

Taqleed means to accept the view of a Mujtahid and to acknowledge it to be in conformity to some Shar`i proof, without seeking the proof for it.

To make Taqleed of a Mujtahid is not to understand him to be a formulator of originator of the Shariah, rather it is to accept him as one who expounds and interprets the rulings of the Shariah. He is also taken to be one who dilate upon the Shariah and makes apparent the injunctions of Allaah Ta`ala and Rasulullaah (sallallahu alayhi wasallam). For example, we make Taqleed of Imaam Abu Hanifah (rahmatullahi alaihi), based on this we say that he is a great Aalim of the Qur`aan Majeed and Sunnah. He has the ability to make Ijtihaad and whatever ruling he shows us, is in conformity to the Qur`aan Majeed and Sunnah.

The proofs for the permissibility of Taqleed

1. *"It has been reported from Aswad Bin Yazeed who says that Hadhrat Ma`aaz (radhiallahu anhu) came to them in Yemen as a teacher and leader. We once asked regarding the ruling of a man who passed away and left a daughter and sister as heirs. He ruled that the daughter gets half and the sister half. Rasulullaah (sallallahu alayhi wasallam) was alive at that time."* In this incident the questioner did not request a proof from Hadhrat Ma`aaz (radhiallahu anhu), but relied on his piety and knowledge and accepted his ruling without any dispute. This is Taqleed. There is no refutation or disapproval established for this from Rasulullaah (sallallahu alayhi wasallam).

2. *"It has been reported from Imaam Maalik (rahmatullahi alaihi) that someone asked Hadhrat Umar (radhiallahu anhu) regarding a person who gave some grain on credit to another*

person on the condition that it be paid in another city. Hadhrat Umar (radhiallahu anhu) detested this sale and said, 'Where is the wage of the carrier?'" Since there was no clear Hadith of Nabi (sallallahu alaihi wasallam) on this issue, hence this was the Qiyaas of Hadhrat Umar (radhiallahu anhu). Since Hadhrat Umar (radhiallahu anhu) did not give a proof for his view neither did the questioner request the same, but it was merely accepted and practiced upon, this is known as Taqleed.

3. *"It has been reported from Ubaid Bin Abi Saleh, who says, 'I sold some barley to the people of Daarun Nakhlah, and specified a certain time for payment. I later intended going to Kufa, when these people made a request of me that I reduce the amount for them and they will pay me cash. I asked Zaid Bin Thaabit (radhiallahu anhu), who replied, 'I do not permit you to do this, neither to eat or feed from this.'"* In this incident, Hadhrat Ubaid Bin Abi Saleh (rahmatullahi alaihi) did not ask a proof from Hadhrat Zaid Bin Thaabit (radhiallahu anhu). This is Taqleed.

The Shar`i decree regarding Taqleed-e-Shakhsi (i.e. to follow only one Mujtahid)

"It has been reported from Huzail Bin Sharahbeel in a lengthy Hadith, the summary of which is, he says, 'Abu Moosa was asked a Mas`alah, and then the same question was asked of Ibn Mas`ood and he was told of the reply of Abu Moosa. Hadhrat Ibn Mas`ood (radhiallahu anhu) gave another ruling. When Hadhrat Abu Moosa (radhiallahu anhu) was informed thereof he said, 'As long as this reputable Aalim is in your midst, do not ask anything of me.'"

This statement of Hadhrat Abu Moosa Ash`ari (radhiallahu anhu) makes it evident that whoever asked anything of him, he would refer him to Hadhrat Ibn Mas`ood (radhiallahu anhu). This is what is known and *Taqleed-e-Shakhsi*.

Taqleed-e-Shakhsi is necessary in these times

The meaning of Taqleed-e-Shakhsi being imperative

There are two reasons why a thing is necessary or Waajib;
The one is where the Qur`aan Majeed or Hadith has commanded it, for example, Salaat, fasting, Zakaat, etc. Such incumbencies are known as *Wujoob Biz Zaat* (binding and incumbent by virtue of themselves).

The second is where the thing itself has not been specifically made incumbent, but a thing which has been made incumbent in the Qur`aan Majeed and Hadith cannot be properly executed without this (former) thing. Hence, this thing also becomes necessary and binding. Such a necessity is known as *Wujoob Bil Ghair* (binding and necessary by virtue of something else).

For example, to compile and gather the Qur`aan Majeed and write it (into one book), has not been made incumbent in the Shariah. In fact, from one Hadith, it has been ascertained that writing, itself, has not bee made compulsory. *"It has been reported from Ibn Umar (radhiallahu anhu), who says that Nabi (sallallahu alaihi wasallam) said, 'We are an unlettered Ummat. We do not know to write or calculate."*

When general writing and calligraphy is not binding and Waajib, how then can writing the Qur`aan Majeed be Waajib? However, there is emphasis in the Shariah on preserving and safeguarding the Qur`aan Majeed from destruction. Experience and logic dictates that when memories become weak, there is no other way of preserving except by means of calligraphy. It is for this reason why writing and recording the Qur`aan Majeed and Ahaadith becomes binding and necessary. However this compulsion is because of something else, which in this case is the preservation of the Qur`aan Majeed and Hadith, whereupon is based this compulsion.

Similarly, Taqleed-e-Shakhsi is also *Waajib Bil Ghair.* The contributing factor which makes Taqleed binding are those things which the Qur`aan Majeed and Hadith command. The execution of these things are dependant upon Taqleed-e-Shakhsi. Just as how the proof for the incumbency of

writing down the Qur`aan Majeed and Hadith are not sought directly from the Qur`aan Majeed and Hadith, so too the proof for Taqleed-e-Shakhsi cannot be sought directly from Qur`aan Majeed and Hadith.

There would be disorder and interference in executing those matters which are binding, without making Taqleed-e-Shakhsi in this present era

1. Having knowledge and practice purely for the sake of Deen
2. The base desires must be overpowered by matters of Deen, i.e. to make the base desires subservient to the Deen and not to make the Deen subservient.
3. To safeguard oneself from such matters, wherein there is an overwhelming fear of harm to the Deen.
4. Not to be in opposition to the *Ijma* of the Ahle Haqq.
5. Not to exceed the limits of the Shariah laws.

The incumbency and necessity of these issues are clear and apparent. There is no need to list proofs for them. Experience and logic bear testimony to the fact that not making *Taqleed-e-Shakhsi,* results in the above-mentioned matters falling into disorder and mayhem. The reason for this is that in present times, the dispositions and nature of most people will fall prey to mischief and vanity, as is borne out by those Ahaadith which list the *fitnahs* of the future times.

Hence if Taqleed-e-Shakhsi is not practices, then three scenarios will ensue

The first scenario

Some people will imagine themselves to be Mujtahids and they will begin making their own Qiyaas, whereas in reality they will be wholly unqualified for it.

In such a case, when Ijtihaad becomes the order of the day, then the mass distortion and tampering in the Deen which will result, will not be surprising. For example, the Mujtahiddeen of bygone times had discerned

through the power of Ijtihaad that some *nusoos* was *Mu`allal* (i.e. having some causative factor). That is, the injunction and ruling in the *nusoos* was dependant upon some specific *Illat*. This understanding and reasoning of theirs was correct and accepted. Similarly, some people in present times have averred that they have found the incumbency of wudhu to be *mu`allal*. The causative factor which made wudhu necessary (according to these pseudo 'mujtahids') is that the Arabs were a nation that generally herded sheep and camels, and their hands would mostly becomes soiled as a result of this. These (soiled) hands would then touch the face. It is for this they were commanded to make wudhu so that their hands and faces become clean. In this context the washing of these limbs, which are generally exposed, is required in wudhu. Now, since we bath every day and sit in buildings, our bodies are always clean. Therefore, wudhu is not necessary for us and we can perform Salaat without making wudhu. Such 'reasoning' goes completely against the general consensus of the entire Ummat.

The second scenario

To deem Ijtihaad as being completely non-acceptable. This results in not making Ijtihaad and not following or accepting the Ijtihaad of others. Only the apparent meaning of the Hadith is practiced upon. The evils of this type of mentality is as follows;

a). Such people will not practice upon those Masaa`il which are not to be found explicitly in the Qur`aan Majeed or Ahaadith, because they do not make Ijtihaad nor do they accept the Ijtihaad of others. They deem Ijtihaad as being impermissible and they do not find these Masaa`il being mentioned in the *nass*. It therefore becomes necessary that they omit such Masaa`il. Since all Masaa`il fall within the parameters and scope of the Shariah, it follows that such people will fall out of the Shariah by virtue of their not practicing or accepting a part of the Shariah.

b). To practice upon the literal and apparent meaning of some Ahaadith is clearly impermissible. For example the Hadith, *"(Nabi - sallallahu alaihi wasallam) Performed Zuhr and Asr Salaat together and Maghrib and Esha Salaat together, when there was no fear or not on journey."* [Muslim]
Whereas, to combine any two Salaats in one time (for example, to perform Zuhr and Asr in the time of Zuhr, as is understood by the Hadith) is not

permissible according to all jurists. It is for this reason that a suitable interpretation will be found for this Hadith through the power of Ijtihaad. If practice is made upon the apparent meaning of this Hadith, then one will be acting contrary to the *Ijma* of the Ummat.

The third scenario

Making Taqleed of just any of the Aimmah in difficult Masaa`il. That is, sometimes adopting the Fatwa of one Mujtahid and other times taking the Fatwa of another. The evils of this practice are;

a). There will be times when one will be acting contrary to *Ijma*. For example, a person makes wudhu, whereafter he starts bleeding. According to the Hanafi Math-hab wudhu breaks with the flowing of blood, so he says that he will adopt the Shaafi Ruling in this case and his wudhu is not broken. And then he touches a woman with desire and says that he adopts the Fatwa of Imaam Abu Hanifah (rahmatullahi alaihi) in this case and his wudhu is not broken, whereas according to Shaafi Math-hab is wudhu is broken. In this condition, without renewing his wudhu, he performs Salaat.

Now, according to consensus the wudhu of this person is broken, albeit in different ways, hence according to all Aimmah, his Salaat is baatil (invalid). In this way, he has acted contrary to *Ijma*.

b). Since the object and primary aim of the naffs is to satisfy the carnal desires, therefore, in Masaa`il where there is a difference of opinion, the naffs would opt for the view wherein it finds pleasure and where its worldly objective can be accomplished. Such a person will not adopt a view thinking it to be Deen, in fact, his primary objective would be to achieve some (worldly and nafsaani) benefit. Such a person will always make the Deen subservient to his base desires. It is clear that the intention of such a person when carrying out any act would be to satisfy his naffs and attain some worldly benefit.

If the view of one Imaam does not suit his fancy, then he will seek the view of another Imaam. The result being that his intention in the knowledge and practice of Deen would not be to acquire the Pleasure of Allaah Ta`ala.

For the person whose naffs tastes such freedom, it will not be long when this freedom of his will lead to (tampering in the beliefs regarding) the basic tenets of Deen, and it is unavoidable and inevitable that this will cause great harm to his Deen.

The above discussion makes very clear and apparent that there will be great distortion and mayhem in one's Deen, with regard to the above-mentioned five matters, if one does not make *Taqleed-e-Shakhsi.*

The objection to the obligation of Taqleed-e-Shakhsi being general, and its reply

Objection:

It has been clearly mentioned in the above discussion that the natural dispositions and natures of people, nowadays, are such that if they do not make Taqleed-e-Shakhsi, they will become inevitably embroiled in great mischiefs. Now, since this applies to some (albeit the majority), why is the incumbency of Taqleed levelled at everyone?

Reply:

There is a rule that in order to safeguard administrative and general laws from disruption and mischief, the majority is taken into account. A general promulgation is issued based on the condition of the majority. This then is the meaning of the statement of the Fuqahaa, that if permission is granted for some act, and there is an overwhelming fear that it will lead to corruption of the masses, then the execution of such an act will be impermissible for the special minority as well. This rule is substantiated by the following Ahaadith,

1. "It has been reported from Jaabir that Umar (radhiallahu anhu) came in the service of Nabi (sallallahu alaihi wasallam) and asked, 'Indeed we hear some narrations from the Jews which are good, do you consent to us writing some of these down?' Nabi (sallallahu alaihi wasallam) replied, 'Do you also desire to be astonished by the religion of the Jews and Christians as they are?'" [Ahmad]

Since the recording of such things would lead to the general masses being waylaid, Nabi (sallallahu alaihi wasallam) prohibited the recording thereof. A person like Hadhrat Umar (radhiallahu anhu) whose Imaan and belief was strong and firm, was also prohibited from this. From this we deduce that whatever may lead to the deviation of the general public is prohibited also for the selected few.

2. "It has been reported by Shaqeeq (rahmatullahi alaihi) who says that Hadhrat Abdullah Bin Mas`ood (radhiallahu anhu) would advise them every Thursday. Some one commented, 'O Abu Abdur Rahmaan, we desire that you advise us every day.' He replied, 'This matter prevents me (to lecture every day), that you may become bored, therefore by occasional lecturing, you are more attentive. Just as Rasulullaah (sallallahu alayhi wasallam) also, for fear of getting us bored, used to advise us only sometimes in order to keep our attention acute.'" [Bukhari/Muslim]

It is apparent that not all the listeners would get bored, this is borne out by the enthusiasm of the questioner. However, in considering the disposition of the general listeners, this prohibition had to apply to everyone. This was also the practice of Rasulullaah (sallallahu alayhi wasallam).

The reason for the specification of the four Mathaahib, and more specifically that of the Hanafi Math-hab?

Since it has been sufficiently proven and discussed above that *Taqleed-e-Shakhsi* is incumbent and that to opt for the rulings of different Mujtahids would necessitate great mayhem and evils, it follows that Taqleed be made of such a Mujtahid whose principles and corollaries are sound and such that virtually every question (of Deen) is answered, either in whole or part, so that there never arises the need to refer to another Mujtahid. This quality and traits can be found, with the *Fadhl* of Allaah Ta`ala, in the four Math-habs, and not in any other. It is therefore necessary that one of these four Math-habs be opted for, because to choose another fifth Math-hab would lead to all the evils explained above. If the answer to any question is not found in that (new fifth) Math-hab, then it will be necessary to refer to another Math-hab, which will inadvertently give rise to the evils listed above, where the naffs will eventually be given the upper-hand and become

habituated to satisfying its own pleasures. This is the reason why the limitation exists in following only one of these four Mathaahib. Based on this, the majority of the Ulama, over the centuries, have practiced upon this. To such an extent that some Ulama have unanimously limited the Ahle Sunnat Wal Jamaat to these four Mathaahib.

This matter remains, as to why the Hanafi Math-hab has been chosen over the other three? The answer to this is that we are in such a situation (place) where the Hanafi Math-hab has gained precedence. The Ulama and Kitaabs in our midst are of this Math-hab. If we have to choose another Math-hab, then it will become difficult for us to conform and learn the Masaa`il, because the Ulama are much more proficient and accustomed to their own Math-hab than to other Mathaahib.

The question would then arise that if you go to a place where all the Mathaahib are equally practiced, why will you still opt for the Hanafi Math-hab? The answer to this is that since, as mentioned above, we have become accustomed and habituated to this Math-hab due to the prevailing reasons and circumstances, if we have to adopt another Math-hab then it will necessitate abandonment of Taqleed-e-Shakhsi, which will lead to all the evils we had outlined previously.

(What if) After attaining and reaching a certain stage, a person leaves his Math-hab completely and adopts another, thereby making total Taqleed-e-Shakhsi of another Imaam? The answer to this is that there must, after all, be some reason or the other for this person leaving his former Math-hab. If a person does not have the power of Ijtihaad, then on what basis can he abandon the one Math-hab in favour of another? Even if he has some little knowledge, then too, by this action of his, the doors will be opened for the general public to switch and change Math-habs in conformity to their base desires. And as mentioned above, that action which leads to mischief and mayhem amongst the general public, its prohibition applies also to the special few. This is the basis of the Ulama prohibiting the changing over from one Math-hab to another.

If a person newly accepts Islaam or if he changes from being one who does not follow and Math-hab to a Muqallid, why then is he made to follow the

Hanafi Math-hab? The answer to this is that if this person is in such a place where the Hanafi Math-hab is predominant, then this factor in itself is a reason for his following this Math-hab. However, if he is in a place where different Mathaahib are being equally practiced, then he has a choice of following one of those Mathaahib, provided he remains steadfast upon that Math-hab.

A few doubts regarding Taqleed and their replies

First objection

Taqleed has been censured in the following Aayat of the Qur`aan Majeed, *"When it is said to them that they follow what Allaah has revealed, they say, 'No, we follow that upon which we found our forefathers (doing).' What (will they follow them) when their forefathers did not know anything, nor were they rightly guided?"*

Hence, with the existence of the Qur`aan Majeed and Hadith, it is evil to follow the way of the pious predecessors.

Reply

The very translation of this Aayat will demonstrate the point that there is a world of difference between the Taqleed of the kuffaar and that of the Aimmah-e-Mujtahiddeen. Two reasons are shown for censure of the kuffaar's Taqleed;

Firstly, they refute the Aayaat and Injunctions of Allaah Ta`ala, by openly declaring that they will not accept this path and that they will rather follow the path of their forefathers. Secondly, their predecessors were devoid of intelligence, Deen and guidance.

Contrary to this, these two points are not to be found in the Taqleed of the Aimmah-e-Mujtahiddeen. No Muqallid says that he will not follow the Qur`aan Majeed and Hadith, in fact, he will confirm that our Deen comprises of Qur`aanic Aayaat and Ahaadith. However, he will concede that his knowledge thereof, is deficient or totally lacking, or that he does

not have the ability to make Ijtihaad, therefore he follows a certain Mujtahid, who is an expert at Qur`aan Majeed and Hadith and also is a paragon of Taqwa. Having reliance and trust on the interpretation of this Mujtahid, he follows the Qur`aan Majeed and Hadith. The object is that our actions are those of the Qur`aan Majeed and Hadith, interpreted and explained to us by the Mujtahid.

Second objection

Some of the Masaa`il shown by the Aimmah-e-Mujtahiddeen are contrary to the Hadith. Why are they followed?

Reply

Before claiming that any Mas`alah is contrary to the Hadith, one has to firstly establish three things,

1. One has to properly understand the object of that Mas`alah.
2. One has to be aware and cognisant of its proof.
3. One has to have knowledge of how it was proven. That is, one has to know in what way the Mas`alah was deduced from the proof.

If one does not have the understanding of the above three points, then it would be grossly incorrect to aver that any Mas`alah is contrary to the Hadith. We will now briefly explain these three points with examples.

The necessity of understanding the object of the Mas`alah

An example of this is the statement of Imaam Abu Hanifah (rahmatullahi alaihi) that Salaat-e-Istisqaa is not Sunnat. This statement seems to be apparently contrary to the Hadith, because Salaat-e-Istisqaa has been stated in the Ahaadith as being the practice of Nabi (sallallahu alaihi wasallam). The object of Imaam Saheb's statement is not that Salaat-e-Istisqaa is not established from Nabi (sallallahu alaihi wasallam), he means that it is not a Sunnat-e-Muakkadah. The reason for him stating this is that sometimes Nabi (sallallahu alaihi wasallam) performed Salaat whereafter he made dua for rain and at other times he only made dua for rain without performing

any Salaat. As mentioned in Bukhari Shareef, *"It has been reported from Anas that whilst Nabi (sallallahu alaihi wasallam) was delivering a Friday Khutbah, a man stood up and said, 'O Rasulullaah! The horses and sheep have perished, make dua to Allaah that He send rain.' Nabi (sallallahu alaihi wasallam) stretched his hands and made dua."*

Now that we understand the actual object of Imaam Saheb's statement in context, we realise that it is not contrary to the Hadith.

The necessity of having knowledge of the proof

The reason for this is that sometimes, there may be a few Ahaadith for one Mas`alah. Someone may have seen one Hadith and opined an opposing view, whereas the Mujtahid may have substantiated his view with another Hadith, citing a suitable interpretation for the other Ahaadith. For example,

1. The view of Imaam Abu Hanifah (rahmatullahi alaihi) is that the Muqtadi should not recite Surah Faatihah when performing behind an Imaam, whereas there are Ahaadith stating that Surah Faatihah must be read by the Muqtadi.

a). *"It has been reported by Ubadah Bin Saamit (radhiallahu anhu) who says that Rasulullaah (sallallahu alayhi wasallam) said, 'There is no Salaat for the person who does not recite Surah Faatihah.'"*

b). *"It has been reported by Ubadah Bin Saamit , who says, 'We were performing Fajr Salaat behind Rasulullaah (sallallahu alayhi wasallam). He recited Qiraat, which became heavy upon him. Upon completion of the Salaat, he asked, 'It is as though you recite Qiraat behind your Imaam?' We replied in the affirmative. Rasulullaah (sallallahu alayhi wasallam) said, 'Do not do this (i.e. do no recite anything), except Surah Faatihah, because there is no Salaat for the person who does not recite it.'"*

Looking at these Ahaadith it appears as though Imaam Abu Hanifah (rahmatullahi alaihi) has opined a view contrary to them. However, when one views his proofs, then it will be noted that he also substantiates himself from Qur`aan Majeed and Hadith.

a). It is stated in the Qur`aan Majeed, *"When the Qur`aan Majeed is being recited, then listen attentively to it and remain silent."* [Surah A`raaf, Aayat 204]
Imaam Ahmad Bin Hambal (rahmatullahi alaihi) has stated that there is a consensus of opinion amongst the Mufassireen that this Aayat was revealed regarding Salaat.

b). *"It has been reported by Abu Hurairah (radhiallahu anhu) that Rasulullaah (sallallahu alayhi wasallam) said, 'The Imaam has been placed there so that you may follow him. When he makes Takbeer, then you make Takbeer, and when he recites Qiraat, then remain silent.'"*

This Hadith states general silence during Salaat. It does not specify that silence should only be when the Imaam recites audibly, neither does it exclude Surah Faatihah or any other Surah from the prohibition of silence. Therefore the object of this Hadith is that when the Imaam recites Qiraat, either audibly or inaudibly, neither is Surah Faatihah nor any other Surah to be recited by the Muqtadis, who under all circumstances must remain silent.

As for the Ahaadith which state that Salaat is not valid without Surah Faatihah, there is another Hadith, *"It has been reported from Jaabir (radhiallahu anhu) who says that Rasulullaah (sallallahu alayhi wasallam) said, 'The person who has an Imaam, the recital of the Imaam is his (Muqtadi's) Qiraat.'"*

Since the Imaam also recites Surah Faatihah, therefore, the Surah Faatihah of the Muqtadi is also counted. In this way the Salaat of the Muqtadi is also not done without Surah Faatihah.

Now remains the (second) Hadith of Hadhrat Ubadah Bin Saamit (radhiallahu anhu). From this we ascertain that at first the people used to recite Surah Faatihah and a Surah when performing Salaat behind Nabi (sallallahu alaihi wasallam). Nabi (sallallahu alaihi wasallam) maintained the practice of recital of Surah Faatihah but prohibited the recital of any other Surah. Thereafter, the Hadith *'The person who has an Imaam, the*

recital of the Imaam is his (Muqtadi's) Qiraat' confirmed a prohibition of the recital of Surah Faatihah by the Muqtadis also. The confirmation of this can be found in the following Hadith, *"It has been reported by Wahab Bin Kaisaan that he heard Hadhrat Jaabir Bin Abdillah (radhiallahu anhu) saying, 'The person who has performed a Rakaat of Salaat without reciting Surah Faatihah has not made Salaat, except (if he read) behind an Imaam."*

2. Imaam Abu Hanifah (rahmatullahi alaihi) is of the view that it is Sunnat to make *Rafà Yadain* (lifting the hands to the earlobes) when reciting the Takbeer upon commencement of the Salaat, but not when going into or coming out of Ruku. In fact, he states that it is Sunnat not to make *Rife Yadain* on this occasion.

Whereas, *Rife Yadain* for going into and coming out of Ruku is established from the following Ahaadith:

Hadhrat Abdullah Bin Umar (radhiallahu anhu) states, *"Indeed Rasulullaah (sallallahu alayhi wasallam) used to lift his hands upto his shoulders when he began Salaat, when he made Takbeer for going into Ruku and when lifting his head from Ruku."*

The proof of Imaam Abu Hanifah (rahmatullahi alaihi) is as follows:

a). *"It has been reported from Alqamah who says that Abdullah Bin Mas`ood (radhiallahu anhu) said, 'Should I not perform for you the Salaat of Rasulullaah (sallallahu alayhi wasallam)?' He performed Salaat and did not lift his hands (make Rife Yadain) except in the beginning."*

In reality, the situation was such that at first it was Sunnat to make *Rife Yadain* on various occasions during Salaat. For example, at the time of going into Sajdah and when coming out of it, when standing up after two Rakaats and when making Salaam.

Hadhrat Maalik Bin Huwairith (radhiallahu anhu) says he saw Rasulullaah (sallallahu alayhi wasallam) making *Rife Yadain* when *"…going into Ruku,*

when lifting his head from Ruku, when going into Sajdah, when lifting his head from Sajdah…"[Nisai]

Naaf`i says that when Hadhrat Abdullah Bin Umar (radhiallahu anhu) commenced Salaat he would make *Rife Yadain*, when he went into Ruku he would make *Rife Yadain*, when reciting *Samee Allaahu Liman Hamidah*, he would make *Rife Yadain*, when standing up from two Rakaats, he would make *Rife Yadain*, and he attributed (these actions) to Nabi (sallallahu alaihi wasallam).

However, on other occasions (postures of Salaat), there is consensus that the order of *Rife Yadain* no longer remained. Similarly, the order for making it when going into Ruku also no longer remained. The proof of this is in the following,

Hadhrat Jaabir Bin Samurah (radhiallahu anhu) says that Rasulullaah (sallallahu alayhi wasallam) came out of his room when they were performing Salaat whilst making Rife Yadain. Nabi (sallallahu alaihi wasallam) said that what is the matter that in Salaat you people make Rife Yadain like the lifting tails of a bolting horse (i.e. since Rife Yadain has been abrogated, why then do you still indulge in this futile exercise?). You should adopt ease and serenity in your Salaat.

Therefore, this Mas`alah of Imaam Abu Hanifah (rahmatullahi alaihi) is not contrary to the Hadith.

The necessity of understanding the reasoning behind the proofs

It is reported in one Hadith where Hadhrat Nu`maan Bin Basheer (radhiallahu anhu) said, *"Rasulullaah (sallallahu alayhi wasallam) faced towards the people and said thrice, 'Straighten you saffs.' Hadhrat Nu`maan Bin Basheer (radhiallahu anhu) further says, 'I saw that each person placed his shoulders next to the shoulders of his neighbour (in Salaat), his knees next to the knees of his neighbour and his ankles next to his ankles."*

The view of Imaam Abu Hanifah (rahmatullahi alaihi) is that in Salaat, the shoulders of each Musalli should be next to the neighbour's, but the ankles should not touch each other, they should be in line with one another. His proof is also the above mentioned Hadith.

The basis for his reasoning is that it is not physically possible for people in Salaat to join their ankles and knees. If the knees are joined, then the ankles will be apart. It is obvious that the knees cannot be touching one another and have to be straight. So too must be the case of the ankles, that they not be joined with one another, but straight. The Musallis should stand as though they are standing before a Magnanimous Being and grant Him the due respect and honour. Some people join their shoulders and ankles and formulate an interpretation for the joining of the knees, and keep them straight.

Imaam Abu Hanifah (rahmatullahi alaihi) also accepts this Hadith as a proof, and he advocates the joining of the shoulders and offers a suitable interpretation for the ankles and knees. Another substantiation that he cites is that when one stands before an honourable person, then it is appropriate that there not be a large gap between the ankles.

CHAPTER ELEVEN

THE PRINCIPLES OF SUNNAT AND BID`AH

The literal meaning of Bid`ah

Imaam Nawawi (rahmatullahi alaihi) writes, *"Every act which is executed contrary to a previous pattern."*

Haafiz Ibn Katheer (rahmatullahi alaihi) states, *"And similarly, any new speech and action which was not practiced in earlier times, is termed as Bid`ah in Arabic terminology."*

The word *Badee`* also comes from here. The meaning of the sentence *Badee`us Samaawaati Wal Alrdh* is that Allaah Ta`ala created the heavens and earth, with His Great and Perfect Power, which resembled nothing of the past.

The Shar`i meaning of Bid`ah

Allamah Aini (rahmatullahi alaihi) states, *"The word Bid`ah, in reality, means any such innovation (new act) which was not present during the era of Rasulullaah (sallallahu alayhi wasallam)."*

Allamah Murtadhaa Zubaidi (rahmatullahi alaihi) states, *"The Hadith, 'Every innovation (in the Deen) is a Bid`ah', refers to everything which is contrary to the principles of the Shariah and not in conformity with the Sunnah."*

The crux is that Bid`ah are those things whose origin is not established in the Shariah, i.e. it cannot be corroborated by the Qur`aan Majeed or Sunnah, and they are such acts which were not in existence during the era of Nabi (sallallahu alaihi wasallam), the Sahaabah (radhiallahu anhum), Tabieen (rahmatullahi alaihim) or Tabè Tabieen (rahmatullahi alaihim), and they are either practiced upon or omitted believing them to be a part of the Shariah. [Ta`leemul Islaam, part 4]

Note:

It is necessary to have the condition of (i.e. specify) Deen in the description of Bid`ah. Knowledge (Aqaa`id – beliefs), actions and conditions are all included in this description. That is, any belief, practice or condition which is not included in the Qur`aan Majeed, Sunnah, Ijma or Qiyaas will be classified as Bid`ah.

The Hadith which corroborates this is where Nabi (sallallahu alaihi wasallam) said, *"He who innovates in our matter (i.e. Deen), which is not from it, is rejected."*

Note:
Wherever the word 'Sunnah' is used in contrast to 'Bid`ah', it refers to any such act whose permission is substantiated by a Shar`i proof.

The various definitions which are found for 'Bid`ah' are not conflicting, there is only a difference in their manner and mode (of presentation and phraseology)

Some have described a Bid`ah-e-Shar`i as every innovation in the Deen which was not present during the era of Nabi (sallallahu alaihi wasallam), that is, neither was it present in verbal form, nor in practice nor in speech, nor unambiguously nor by indication (tacit approval). It therefore follows that if something was not substantiated and no Shar`i proof for it could be found in the era of Nabi (sallallahu alaihi wasallam), then proof for its execution would not be found in the subsequent eras (i.e. Khulafaa-e-Raashideen, Sahaabah (radhiallahu anhum), Tabieen, Tabè Tabieen).

From this we ascertain that those practices which found popularity in the era of the Sahaabah (radhiallahu anhum) in general, and the era of the Khulafaa-e-Raashideen specifically, were such that there existed a proof for them during the era of Nabi (sallallahu alaihi wasallam) and such practices were present during his era, only when the occasion arose and warranted did these practices become common (after the demise of Nabi - sallallahu alaihi wasallam), based on this proof (which existed during the era of Nabi - sallallahu alaihi wasallam). Examples of such practices are,

the first Athaan of Jumuah Salaat, the establishment of a Jamaat for Taraaweeh Salaat, etc. These practices did not exist in this form during the era of Nabi (sallallahu alaihi wasallam).

The definition of Bid`ah-e-Hasanah and Bid`ah-e-Sayyi-ah

From the aforegoing literal and Shar`i definitions of Bid`ah, we understand that Bid`ah is an innovation. Wherever this word is used in the Shar`i Kitaabs, then,

1. Its meaning is taken to be any act which came into existence after the era of Nabi (sallallahu alaihi wasallam). It is either an act worthy of merit or censure, where proof for its permissibility can be found in the Shariah or not. Hence this separates it into two types. The first being an act which has merit and is a praiseworthy act, whose approval can be substantiated in the Shariah and the second type is worthy of censure and condemnation, which cannot be corroborated by any Shar`i proof.

Therefore, the first type is known as Bid`ah-e-Hasanah and it is equated to Sunnah, whereas the second type is known as Bid`ah-e-Dhalaalah. This second meaning is the generally used and meant term.

2. Sometimes the term Bid`ah is utilised to mean those things which are contrary to the method of the Shariah. That is, the proof for its permissibility is not to be found in the Shariah. This is a special meaning of Bid`ah. The Kitaabs of Shariah refer to this one.

The usage of these two meanings are correct and there is no difference between them. The difference only lies in the explanation and phraseology. There is no difference in their respective import and application. Those who regard Bid`ah as being always something worthy of censure, they use the specific meaning and definition of Bid`ah, whereas those Ulama who differentiate between good and bad Bid`ah use the general meaning of Bid`ah.

A general and encompassing rule to differentiate between a Bid`ah and Sunnah

Those things which were introduced (into the Deen) subsequent to the best of eras, i.e. the era of the Sahaabah (radhiallahu anhum), Tabieen and Tabè Tabieen, are of two types;

The first being those motivating factor is also new, and the completion of some (Shar`i) injunction also depends. That is, in the absence of this (innovation), practice will not be able to be made on this (Shar`i) injunction. For example, the compilation of Deeni Kitaabs, the codification thereof, Madaaris and Khanqahs, etc. were not present during the era of Nabi (sallallahu alaihi wasallam).

An explanation of this is as follows – everyone is well aware that the preservation of the Deen is a duty upon every Muslim. However, during the best of eras, there was no need for these new innovations in order to safeguard the Deen, because their connection with Allaah Ta`ala was effected through the blessed medium of Rasulullaah (sallallahu alayhi wasallam). Their memories were also so excellent that whatever they heard would be embedded into their minds. Their intellects and intelligence was also of a much more superior standard. They excelled in abstinence and piety. Thereafter there came an era where the memories became weaker and the standard dropped. There was deficiency in almost every aspect. The Ulama of the time realised that there was a great fear of the Deen suffering and being diminished and in the interests of the preservation of the Deen, all these 'innovations' were introduced. In this regard, Kitaabs on Hadith, *Usool* of Hadith, Fiqh, *Usool* of Fiqh, Tafseer, etc. were initiated and compiled. Madaaris were opened for the teaching of these science and Kitaabs. Hence these are such things whose reason for existence were non-existent during the best of eras, but the reason was created later on. The fulfilment of the injunction of safeguarding the Deen is dependant hereupon.

Therefore, these things, although they may be innovations and new, they are not classified as Bid`ah. In fact, they fall under the category of the principle, *Muqaddamatul Waajibi Waajibun (i.e. that thing whereupon the*

fulfilment of a Waajib is dependant, becomes Waajib itself). Hence these things are Waajib.

The second are those things whose reason (motivating factor) is old. For example, the reasons for the celebrations of *Meelad*, *Teeja, Daswah*, etc. are old. For example, the reason for the enactment of the celebration of *Meelad* is to express joy at the blessed birth of Nabi (sallallahu alaihi wasallam). This reason for celebration existed from the era of Nabi (sallallahu alaihi wasallam), but neither did Nabi (sallallahu alaihi wasallam) nor the Sahaabah (radhiallahu anhum) celebrate this occasion. If the reason for its execution did not exist at that time, then it can be argued that its motive was non-existent. But since the reason for its enactment did exist then why did Nabi (sallallahu alaihi wasallam) or the Sahaabah (radhiallahu anhum) not establish these practices? The ruling of such acts is that they are Bid`ah in form and practice. They are to be compulsorily abandoned since they fall directly under the scope of the Hadith, *"He who innovates into our matter (Deen), which is not therefrom, is rejected."*

The types of Bid`ah

The first type

This where the thing in itself is impermissible and Bid`ah. For example, to light lamps on the occasion of 14th Rabiul Awwal and on *Shab-e-Baaraat*. To make *Ta`ziyah* and build tombs on graves. Also those beliefs of the deviant sects, which are contrary to the beliefs of the Ahle Sunnat Wal Jamaat, like that of the *Mu`tazilahs* who aver that man is the creator of his own actions and that in the hereafter the seeing of Allaah Ta`ala will not be possible, and the perpetrator of major sins is not a Muslim, etc. are all Bid`ah. The same applies to the present-day new beliefs that Nabi (sallallahu alaihi wasallam) has the ability and power similar to that of Allaah Ta`ala and that he is *Haazir-o-naazir (omnipresent)*. Also to hold the belief that Nabi (sallallahu alaihi wasallam) has the perfect and complete knowledge of whatever took place from the first day of creation until the Last Day, is Bid`ah.

The second type

This is where the actual thing is permissible, but there may be some condition placed upon it, or something added to it, or a specific time may be attached to it or some Shar`i condition may be overlooked in its execution, all such acts are also included as Bid`ah.

1. For one to make a specific thing general or vice versa

That is, to make a thing specific with a time where it may not be specific with any time or where a thing may be specific with one time to specify it for other times as well.

Hadhrat Abu Hurairah (radhiallahu anhu) reports that Nabi (sallallahu alaihi wasallam) said, *"Do not specify the night of Friday (Thursday night) for standing in prayer (Nafl Ibaadat) over any other night and do not specify the day of Friday for fasting over other days, unless it falls on a day of your (usual) fasting (i.e. where a person habitually fasts in the middle of every Islamic month and it happens to fall on a Friday or a Friday happens to fall on the 15th Shabaan when one normally fasts, then there is no harm in it)."*

Since Nabi (sallallahu alaihi wasallam) had extolled the virtues of the day of Jumuah and the Salaat of Jumuah, it must not be that a person draws his own conclusions and specifies this day and its night for extra Nafl Ibaadat and makes it habitual. In view of this, Nabi (sallallahu alaihi wasallam) had expressly prohibited specifying these times for habitual extra Ibaadat, and informs us that those acts of Ibaadat which he had specified for that day, Jumuah, Khutbah, etc. those should hold preference and have more virtue. If a person makes his own Qiyaas and adds to this, then it will not be accepted from him. Therefore in this Hadith it is expressly stated that one should not specify the night and day of Jumuah for Nafl Ibaadat and fasts, because the Nafl Ibaadat performed on all days are equal. To specify any time on our own, without a decree from the Shariah is incorrect. Hence to specify an Ibaadat which is general is prohibited from.

A specific act, like the actions which are specific for the day of Jumuah, like the Jumuah Salaat, Khutbah, etc. to overlook this limitation placed on its execution by the Shariah and to make these acts general, like making the Jumuah Salaat and Khutbah on another day, is forbidden and prohibited from.

The import and message in this Hadith is that we should carry out all acts in compliance to the decree of the Shariah and not to change that by using our own opinions and decisions. However, as for those matters which the Shariah has excluded or they can be proven from other Ahaadith, then they will not be construed as changing the Shariah, in fact, such acts will be deemed as being part of the Deen.

The words in the Hadith, *"Do not specify"* is a general prohibition. Hence every type of specification, be it with regard to beliefs, knowledge or practice are all forbidden. This is also clear that if any act which is general in the Qur`aan Majeed or Hadith, if it is made specific to any time or day, is regarded as a Bid`ah. Similarly, anything which is specific in the Qur`aan Majeed or Hadith, be it with regard to Aqaa`id or practice, to make it general, i.e. to overlook the Shariah conditions and specifications, is also Bid`ah.

Since this rule is derived and receives clarification from this Hadith, Imaam Nawawi (rahmatullahi alaihi) states in commentary of this Hadith, *"Based on this Hadith the Ulama have ruled the impermissibility of the newly innovated Salaat, known as Raghaa`ib (a Salaat performed in a special way on the first night of Friday in the month of Rajab). Allaah Ta`ala is at war with the establishment of this innovation, because it is a great Bid`ah from amongst the other Bid`ahs, which are all from deviation and ignorance."*

Just look at this! Salaat which is the highest form of Ibaadat, which if performed during permissible times, is worthy of the most reward, yet it becomes a great Bid`ah if it is made specific to any particular time, which is not stipulated so in the Shariah. A general Ibaadat has been made specific to a particular time. This stipulation has rendered the entire act impermissible.

Imaam Ghazaali (rahmatullahi alaihi) who had extolled the virtue of this Salaat (of Raghaa`ib) in *Ihyaa-e-Uloom*, had done so under the notion that it is mentioned in a Hadith. He therefore, regarded it as being permissible and an exception in the Shariah which is specified by Nabi (sallallahu alaihi wasallam). Therefore, he is excused, because he had substantiation for this act. However, the Fuqahaa and Muhadditheen have found the Hadith (which he thought was a proof for this act) to be a concocted Hadith. In view of this, Imaam Ghazaali (rahmatullahi alaihi) did not act contrary to any Shar`i principle, he had in fact erred in his judgement of the 'Hadith', which he believed to be correct. To err is human and Imaam Ghazaali (rahmatullahi alaihi) was not an expert in the science of Hadith, so in this case we take the view of the Muhadditheen.

2. To execute a Mustahab act in a manner which is not acceptable in the Shariah is a Bid`ah

The Thikr of Allaah Ta`ala and Durood upon Nabi (sallallahu alaihi wasallam) are Mustahab acts of Ibaadat. However, to execute them in a manner which is not in conformity with the Shariah is a Bid`ah. One manner which is not in conformity with the Shariah is to gather and specify a Thikr which is made collectively by all. Regardless of whether an Ameer is elected or not or whether the Thikr is loud or soft.

"It is reported from Abu Bukhtari, who says a man informed Abdullah Bin Mas`ood (radhiallahu anhu) about a group of people sitting in the Masjid after Maghrib Salaat. Amongst them a man says (to the others) recite so many times Takbeer, recite so many times Tasbeeh and recite so many times Tahmeed. Abdullah (bin Mas`ood) asked, 'Is he saying like this?' He replied in the affirmative. Hadhrat Abdullah Ibn Mas`ood (radhiallahu anhu) said, 'When you see them doing this again, then come and inform me thereof.' The narrator says that he came and informed Hadhrat Abdullah Ibn Mas`ood (radhiallahu anhu) when these people gathered again. He went to their gathering wearing a hooded cloak and sat down. When he heard whatever they said, he stood up. He was a firm and solid man. He said, 'I am Abdullah Ibn Mas`ood. I take an oath on that Being besides Whom there is no deity. You people have initiated a dark Bid`ah or you are

more knowledgeable than the companions of Muhammad (sallallahu alayhi wasallam).' One of them stood up and said in apology, 'Neither have we initiated a dark Bid`ah nor are we more knowledgeable than the Companions of Muhammad (sallallahu alayhi wasallam).' Amar Bin Utbah said, 'We seek forgiveness from Allaah, O Abu Abdur Rahmaan.' He (Ibn Mas`ood - radhiallahu anhu) said, 'Hold on to the way (of the Sahaabah - radhiallahu anhum), I take an oath, if you carry out such an act then you have remained far behind and if you veer to the left or right, then you are far astray.' In a similar narration stated by Tibrani in Mu`jamul Kabeer, Amar Bin Utbah Bin Farqad said, 'I seek forgiveness fro Allaah, O Ibn Mas`ood and I relent (make Taubah) to Him.' He then instructed the people to disperse."

Tasbeeh, Tahleel and Tahmeed are Masnoon Thikrs. There is also no prohibition with making Thikr in a Masjid, and during the era of the Sahaabah (radhiallahu anhum), gatherings of Thikr would take place in the Masjid. However, when this permissible act is carried out in a manner where it is made in unison and stipulated that everyone recite together, then it is classified as a Bid`ah, as noted by the action of Hadhrat Abdullah Ibn Mas`ood (radhiallahu anhu).

The following narration is in *Daarmi*,
"We would sit by the door of Abdullah Bin Mas`ood (radhiallahu anhu) before the Fajr Salaat and when he would emerge, we would walk together to the Masjid. (One day) Abu Moosa Ash`ari (radhiallahu anhu) came to us and asked, 'Did Abu Abdir Rahmaan (i.e. Hadhrat Abdullah Ibn Mas`ood - radhiallahu anhu) come out already?' We replied in the negative and he sat down with us until he emerged. When he emerged, we all stood up together and Abu Moosa said, 'O Abu Abdur Rahmaan, I have just now seen something in the Masjid which is detestable to me, and my opinion (intention) is, Alhamdulillah, good.' He asked, 'What is it (that you saw)?' He replied, 'If you live long enough, you will soon see for yourself. I saw people in the Masjid sitting in groups awaiting Salaat. They had pebbles in their hands and one person in each gathering was saying, 'Recite 100 times Takbeer', and they would all recite Takbeer a 100 times, he would tell them, 'Recite 100 times Laa Ilaaha Illallah', and they would do so, he would then tell them to recite 100 times Subhaanallah' and they would do

so.' Upon hearing this Abdullah Ibn Mas`ood (radhiallahu anhu) said, 'What did you tell them?' He replied, 'I did not tell them anything and am awaiting your view and advice.' He said, 'Why did you not tell them that they are counting their sins and why did you not give them an assurance that they not destroy their good deeds?'

Abdullah Bin Mas`ood then proceeded and we followed him, until he came up to one of those groups and stood there. He asked them, 'What is this I see you doing?' They said, 'O Abu Abdur Rahmaan, we use these pebbles to count Takbeer, Tahleel and Tasbeeh.' He said to them, 'You are counting your sins and I give you an assurance that no good deed of yours is being destroyed. O Ummat of Muhammad, woe unto you that your destruction is so soon. There are a great many companions of your Nabi (sallallahu alaihi wasallam) still present, the clothes of your Nabi (sallallahu alaihi wasallam) has still not decomposed and his container has still not broken. I take an oath on That Being in Whose Hands my life lies, you are either on the path of such an Ummat which is more guided than the Ummat of Muhammad (sallallahu alayhi wasallam), or you people are opening the doors of deviation.'

They said, 'O Abu Abdur Rahmaan, we only intend good.' He replied, 'There are many who intend good but never achieve it. Rasulullaah (sallallahu alayhi wasallam) informed us that there are many people who recite the Qur`aan, but it does not go beyond their throats. I take an oath on Allaah, I do not know but perhaps most of those people are amongst you.' He then turned away from them.

Amar Bin Salmah says, 'We noticed that the majority of the participants in these groups joined up with the Khawaarij, and they fought against us in the battle of Nahrwaan.'"

When one reflects carefully, then it will be noted that this incident is different from the previous one mentioned. In the first incident the participants were engaged in loud Thikr and in this one soft Thikr. This is borne out by the fact that in the first case, Hadhrat Abdullah Ibn Mas`ood (radhiallahu anhu) heard them making Thikr and in the latter incident he asked them what they were doing.

3. A thing which due to necessity has been ordained in the Shariah, and then to carry it our when there is no necessity or to increase in its specified mode, is Bid`ah

Tathweeb (i.e. to make an announcement and call out to people after the Athaan has been given) is an act which is carried out due to necessity. Hadhrat Bilal (radhiallahu anhu), after giving the Fajr Athaan used to, most of the times, inform Nabi (sallallahu alaihi wasallam) prior to the Imaamat, and Hadhrat Uthmaan (radhiallahu anhu) introduced the first Athaan for Jumuah Salaat.

Thereafter, during the era subsequent to the Sahaabah (radhiallahu anhum), the Ulama of Kufa, kept up the practice of informing the people of the Fajr Salaat, just prior to its commencement, after the Athaan. The reason for this was that at the time of Fajr, sleep is usually overwhelming and people are generally careless.

The fervour and enthusiasm which was resent during the era of the Sahaabah (radhiallahu anhum) was no more to be found. Later on, when it was found that people were becoming careless of other Salaat as well, then the latter Ulama deemed it advisable to have *Tathweeb* for all Salaats, except Maghrib.

During the era of the Sahaabah (radhiallahu anhum), the people were generally enthusiastic. Besides the *Assalaatu Khairam Minan Naum*, there was no need for *Tathweeb* in even the Fajr Salaat, so why in the other Salaats? The reason being that during that era, to have *Tathweeb* without necessity was a Bid`ah. These narrations corroborate this,
"It has been reported that Hadhrat Ali (radhiallahu anhu) noticed the Muath-thin making Tathweeb for the Esha Salaat, and he said, 'Remove this Bid`atee from the Masjid.'"

Mujaahid (rahmatullahi alaihi) reports that once he went with Hadhrat Abdullah Bin Umar (radhiallahu anhu) to a certain Masjid to perform Salaat. The Athaan was already given. One person began making Tathweeb. Hadhrat Ibn Umar (radhiallahu anhu) said to Mujaahid

(rahmatullahi alaihi), 'Take me away from this Bid`atee'. He did not perform Salaat in that Masjid. [Raa-e-Sunnat, page 129]

Later on, when laziness and laxity entered into the masses, the *Ulama-e-Mutaqaddimeen* introduced *Tathweeb* for Fajr Salaat and the *Ulama-e-Muta`akhireen* introduced it for other Salaats besides Maghrib. The reason being that during those times, there were no watches and although people performed their Salaat, they would be delayed in coming for Jamaat Salaat. Either the Jamaat Salaat was delayed or they missed it altogether. Because of this necessity the practice of *Tathweeb* was introduced, however, later when it was noticed that the laziness in people increased even more, such that they paid no heed to Athaan at all and would only prepare for Salaat when the *Tathweeb* was taking place, then in such extreme circumstances, where the rank of *Tathweeb* surpassed its position, it was branded a deviant Bid`ah.

As for our times, one is there are watches available and secondly, enough time is afforded between the Athaan and Salaat where a person can relieve himself, make *Istinjaa* and prepare sufficiently for Salaat. There is no time (or excuse) for a person to be unmindful of his Salaat. Also, as for those who usually perform Salaat, they have the dedication and concern, whereas that majority who are totally unmindful of their Salaat, what benefit is there for them in *Tathweeb* anyway?

Due to all these reasons, there is no need for *Tathweeb* in our era, except for Fajr Salaat, where permission may be granted for one small announcement after the Athaan. Otherwise for other Salaats it would be a Bid`ah.

4. To call one another to a permissible and Mustahab act and to grant undue reverence to it, is a Bid`ah

It is stated in *Sharah Munia,*
"Salaat is a basic and the best of Ibaadat, as long as it is not conducted in an impermissible manner. Know that to perform Nafl Salaat in Jamaat by announcing it is Makrooh."

Mujaahid (rahmatullahi alaihi) says that he and Urwa Bin Zubair entered a Masjid. *"Abdullah Bin Umar (radhiallahu anhu) was sitting close to the room of Hadhrat Aishah (radhiallahu anha) and some people were performing their Chasht Salaat in the Masjid. We asked him regarding what they were performing and he replied, 'It is a Bid`ah.'"*

Chasht Salaat is established through various authentic chains of different Sahaabah (radhiallahu anhum) from Nabi (sallallahu alaihi wasallam). However, during the era of Nabi (sallallahu alaihi wasallam), it was not granted undue consideration or performed in congregational form. Wherever and whenever one found the opportunity it was performed. Another point is that this is a Nafl Salaat whose performance warrants more reward if carried out at home. For these reasons did Hadhrat Abdullah Bin Umar (radhiallahu anhu) label the act of these people as a Bid`ah because they were granting it undue attention and performing it in unison in the Masjid.

For this reason, Imaam Nawawi (rahmatullahi alaihi) said, *"The reason being that to make its (Chasht Salaat) performance apparent in the Masjid and in congregational form is a Bid`ah, not that the actual Salaatud Duhaa (Chasht Salaat) is Bid`ah."*

Similarly the Thikr of Moulood and Isaal-e-Thawaab are permitted acts. However, if they are announced and carried out with undue austerity, then it becomes Makrooh and a Bid`ah.

5. To deem a Mustahab or permissible act as being Waajib or Sunnah-e-Muakkadah is a Bid`ah

It is also a Bid`ah to be vigorous in the execution of a Mustahab act to bring it to the level to a necessary act

Moulana Abdul Hay Luknowi (rahmatullahi alaihi) writes, *"The statement of our Aimmah that it is Makrooh to specify a Surah for Salaat, means that it is Makrooh for the Musalli to himself specify a Surah from the Qur`aan Majeed, because in it is the stipulation of something which the Shariah has not done. Since it is Makrooh to regard as binding a Mustahab act, what*

then would be your opinion on the vigorous and continual practice of a permissible act? [i.e. this should all the more be Makrooh]

The Fuqahaa have explained the reason for this as being the slave (of Allaah Ta`ala) adding to the Ahkaam of the Shariah and imbibing incorrect teachings in the masses (i.e. to believe and accept a permissible or Mustahab act as being Waajib or incumbent). Therefore, if a person specifies certain Surahs for a Salaat and he does not recite anything besides these, then there is no doubt that he made something binding upon himself, whereas the Shariah has not specified any Surahs for any Salaat. Due to this, the masses start thinking these acts as being compulsory and binding. Yes, if being rigorous on any act (which Nabi - sallallahu alaihi wasallam- regularly practiced) will lead to wrong beliefs and practices being introduced into the masses, then it is better to abandon continuity in that act. For example we see that the Shaafi Imaams in Makkah Mukarramah always reciting Surah Alif Laam Meem Sajdah and Surah Dahar in the Fajr of Jumuah, and they never recite anything else besides these on this day, then there are some evils which follow this. One of these is that the masses believe it to be necessary to only recite these Surahs on a Friday in Fajr Salaat. Or at the very least they believe these Surahs to be necessary for Shaafis. It is clear that there is no difference between us and the Shaafis on this point, because they also accept that it is Makrooh to make binding an act which the Shariah has not made binding…"

A further clarification on this Mas`alah is that in Salaat there are no specific Surahs to be recited. In this regard all are equal, i.e. one can recite any Surah in any Salaat. Nevertheless, wherever the Shariah has mentioned some Surahs for particular Salaats, these are Mustahab, like for example, on the day of Jumuah to recite Surah Sajdah and Surah Dahar in the Fajr Salaat. Hence, those Surahs which are specified by the Shariah, Imaam Shaafi (rahmatullahi alaihi) regards continuity in them as being Mustahab and Imaam Abu Hanifah (rahmatullahi alaihi) regards occasional recital of them as being Mustahab and continuity in them as being Makrooh. Imaam Saheb says that continuity in them will on the one hand make a Mustahab act a Waajib one or on the other hand it will make a permissible act one of compulsion. This is alteration in the Shariah which renders it Makrooh.

On this matter, Imaam Tahaawi (rahmatullahi alaihi) has written that the *Karaahat* will become haraam at that time when people believe it to be Waajib and they regard omission of it to be Makrooh. To recite the specific Surah as a blessing will be permissible and meritorious, on condition that sometimes other Surahs are recited as well. From this also we discover that to believe it as Waajib is Makrooh-e-Tahrimi and to be rigorous on it without believing it to be Waajib is also Makrooh.

6. To have similarity with the kuffaar, even if it be in one aspect, is Bid`ah and Makrooh

This is a generally accepted rule in the Shariah, and it is corroborated by the Hadith, *"He who imitates/ resembles a nation is one of them"*.

The word *Tashbeeh (resemblance)* which appears in this Hadith is used in general form. That is, there is no condition of completeness, partiality, excessive or minimal placed on it. There is a generally accepted rule that if anything is general, then its ruling will also be general and it will not be permissible to limit and restrict it. It is said, *"That which is general remains with its generality."*

Hence, the resemblance, in whatever form or quantity will fall under the scope of this Hadith, even though this may not be in totality or permanent. In this way, the entire thing becomes Makrooh and a Bid`ah.

An example of this is in *Hidaaya*, *"If the Imaam recites from the Qur`aan Majeed, then his Salaat is invalid, according to Imaam Abu Hanifah (rahmatullahi alaihi). They (Saahibain) say that the Salaat is complete but Makrooh, because his action resembles that of the Ahle Kitaab. End. The author of Nihaaya says that they (Ahle Kitaab) perform prayer like this (i.e. they look into their holy Scriptures). It is Makrooh because of the resemblance and we have been prohibited from resembling them (the Kuffaar), except in those things which are inevitable."*

"It is Makrooh for the Imaam to stand alone in the Mihraab, because it resembles the action of the Christians. It is Makrooh for the Imaam to

stand alone on a platform (when performing Salaat), for the reason stated (before).”

Take a look at these two excerpts. From all the requisites and conditions of Salaat and Jamaat, even if only one of them, like looking into a Qur`aan Majeed or standing alone on a platform, are carried out which resembles the action of the Christians, then the entire Salaat is Makrooh.

Note #1

There will be no consideration for any type of resemblance in those acts which have been decreed as Waajib or Fardh in the Shariah. This is also indicated to in the Hadith. The word *Tashabbaha* which is stated in the Hadith is from *baab Tafa`ul* and is in past tense and it appears after an *Ism-e-Mousool*. Firstly, the *baab Tafa`ul,* in Arabic grammar, has the implication and usage of a ceremonious and formal act. This implies that the perpetrator had carried out the act of resemblance with formality, and it was not necessary to do this act, neither from the Shariah nor naturally. Secondly, the verb indicates towards a newly initiated act, that is, in the first place the Shariah had not made it binding upon the person, he had in fact, perpetrated and brought it into existence by his own doing. Hence the word *Tashabbaha*, excludes Fardh, Waajib, Sunnat-e-Muakkadah and other natural acts. The ruling of *Tashabbuh* does not apply to these things.

Note #2

It is stated in *Bahrur Raa`iq* that the resemblance which is haraam is the one which is done with intent and wilfully. A reply to this is that firstly the word *Tashabbuh* in the Hadith is general, and it is not permissible to make a general specific by virtue of one’s own opinion. All *Muhaqqiqeen* have stated *Tashabbuh* to be general, hence the statement of *Bahr* cannot be contended against the Hadith.

Also it is stated in a Hadith, *“Change your white hairs and do not resemble the Jews”*. In another Hadith it is stated, *“Clean your courtyards and do not resemble the Jews”*. It is clear that the whiteness in the hair and dirty

courtyards are not actions done to resemble the Jews. In fact, they are natural occurrences.

Besides this, the import of the statement in *Bahr* is that in the word *Tashabbuh* the meaning of ceremonious and formality are found, which necessitates an intention by the perpetrator. An illustration of this will be where a person carries an act unknowingly, and he is later informed that the act which he had carried out is actually a trait and way of a certain nation. He now has to abandon that act and not do it any longer, otherwise if he does it again, then it will be classified as *tashbeeh.* In the first instance this person was neither resembling another nation nor was he a sinner. Now if he does that act with formality and knowingly (that he is resembling someone else), then it will be counted as *tashbeeh*. The same will apply if a person is able to remove something and he wilfully does not remove it, like applying henna (not black) on his white hair. Since he has the ability to remove the whiteness, and he still does not do it, then his abandonment of removing the whiteness will be counted as being wilful.

It is a Bid`ah to recite *Faatihah* and make *Khatam* on food, because it is action associated with Hindus and it is resembling them. The reason being that it is a custom of all Hindus and it is a trait of theirs that they recite some Hindu scripture on food. It is stated in *Tuhfatul Hind* that every year after someone has died, they pass reward to the deceased and they deem this incumbent. The Hindu pundit recites some scripture over the food on this occasion.

Similarly, there is resemblance to Hindus in *Soo-am*. At *Soo-am* the Kalimah and Qur`aan Majeed is recited. There is no resemblance to the kuffaar in these two acts, but the resemblance lies in the gathering of people and specifying the third day. There is resemblance to the Hindus in these acts, because it is their custom to gather on the third day and revive the mourning. Since part of this act is resembling, hence the entire act is regarded as resemblance and is hence impermissible. Therefore it follows that the custom and practice of *Soo`am* is Bid`ah.

7. It is Bid`ah to add to any Shar`i specified Ibaadat

a). Upon completion of the Janaazah Salaat, the bier is to lifted and carried away. It is Makrooh and a Bid`ah to stand there after the Janaazah Salaat and make dua. One reason for this is,

Mullah Ali Qaari (rahmatullahi alaihi) writes, *"Dua is not made for the deceased after the Janaazah Salaat, because indeed this resembles adding onto the Janaazah Salaat."*[Mirqaat, page 219, vol. 2]

Mufti Sa`dullah Saheb (rahmatullahi alaihi) mentions, *"This is not free from abomination (Karaahat), because most Fuqahaa personalities have prohibited it since they regard it as adding on to a Sunnat act."*

b). Naaf`i (rahmatullahi alaihi) states, *"A man sneezed nearby Hadhrat Abdullah Bin Umar (radhiallahu anhu), and said, 'Alhamdulillaahi Was Salaamu Ala Rasulullaah'. Ibn Umar (radhiallahu anhu) said, 'I too used to say this, but it is not correct, because Nabi (sallallahu alaihi wasallam) taught us to say, 'Alhamdulillaah Ala Kulli Haal."*[Tirmidhi, page 98, vol.2]

In this Hadith the extra words were prohibited from because it constituted adding on to what the Shariah had specified. This Hadith proves that we are prohibited from adding to anything which has already been established in the Shariah.

The abstentions of Nabi (sallallahu alaihi wasallam) are also Sunnat, and to oppose this is Bid`ah

To aver that the execution and extraction of those things which are not prohibited from in the Qur`aan Majeed and Sunnah is acceptable, is an incorrect notion and contrary to the Shariah laws. The reason being that whatever Nabi (sallallahu alaihi wasallam) did and whatever he abstained from are all classified as Sunnah. Hence to follow Nabi (sallallahu alaihi wasallam) in abstaining from a certain thing/act is also Sunnah, and to oppose it is Bid`ah. In this regard there is a Hadith, *"Indeed Allaah loves that (His slaves) practice upon those things wherein they have been*

granted leave (leniency) as He loves that His Faraaidh are carried out." [Mirqaat, page 15, vol.2]

Mullah Ali Qaari (rahmatullahi alaihi) writes, *"Obedience and compliance, as it is found in (executing) an action is also found in abstention (from certain actions). A person who rigorously and continuously carries out an action which Nabi (sallallahu alaihi wasallam) did not do, is a Bid`atee."*

Sayed Jamaaluddeen Muhaddith (rahmatullahi alaihi) states, *"(To abstain from) The abstentions of Rasulullaah (sallallahu alayhi wasallam) is a Sunnat as (carrying out) his actions is Sunnat."*

It is clear from these texts that notwithstanding Nabi's (sallallahu alaihi wasallam) being able to carry out an act, he abstained therefrom, therefore it is a Sunnah for us to also abstain and keep away from such actions, as it is Sunnah for us to carry out whatever he (sallallahu alayhi wasallam) did.

Hadhrat Abdullah Bin Abbaas (radhiallahu anhu) said, *"Abstain from rhyming when making dua, because Rasulullaah (sallallahu alayhi wasallam) and his Sahaabah (radhiallahu anhum) never used rhyming words when making dua."* [Bukhari, page 938, vol. 2]

Hadhrat Abdullah Bin Umar (radhiallahu anhu) said, *"The raising of your hands (excessively high in dua) is a Bid`ah. Rasulullaah (sallallahu alayhi wasallam) did not exceed (his hands higher than this (i.e. his chest- in normal dua)."* [Musnad Ahmad, page 61, vol.2]

Hadhrat Ammarah Bin Ruwaibah (radhiallahu anhu), when he saw Bishar Bin Marwaan lifting both his hands in between the Khutbahs, said, *"May Allaah disfigure those two hands, I did not see Rasulullaah (sallallahu alayhi wasallam) increasing more than saying like this with his hands."* And he indicated with his forefinger (i.e. Nabi (sallallahu alaihi wasallam) did not lift more than his forefinger when making Khutbah, whereas this person is lifting both his hands).

At one juncture, the author of *Hidaaya* writes, *"The proof of the Karaahat is that Nabi (sallallahu alaihi wasallam) did not increase upon this. If there*

was no Karaahat, then he (sallallahu alayhi wasallam) would have increased on it to teach the masses."

Similarly, it appears in another place in *Hidaaya*, *"Nafl Salaat is not performed before the Eid Salaat, because Nabi (sallallahu alaihi wasallam) did not do this, notwithstanding his fervour and love for Salaat. It has been said that the Karaahat is specific with the Eidgah and it has also been said that this Karaahat is for other than the Eidgah, because Nabi (sallallahu alaihi wasallam) did not do it (in the Eidgah or other than the Eidgah)."* [Page 153, vol.1]

If one has a doubt as to whether a thing is Sunnat or Bid`ah, then what course of action should one take?

1. Hadhrat Nu`maan Bin Basheer (radhiallahu anhu) has narrated that Rasulullaah (sallallahu alayhi wasallam) said, *"Halaal is clear and haraam is clear. Between the two is the doubtful things, which many people do not know about. He who abstains from the doubtful, he has safeguarded his Deen and honour and he who indulges in the doubtful will (eventually) indulge in haraam, like sheep (grazing) on the borders or the pasture, it is not long before he trespasses over it."* [Bukhari, page 13, vol.1]

This Hadith clearly prohibits the indulgence in doubtful things.

2. This same decree is found in another Hadith, *"Leave out that which you doubt for that which you do not doubt, because surely in goodness is contentment and in evil is doubt and uncertainty."*

3. Allamah Barkali Hanafi (rahmatullahi alaihi) states, *"Know that executing an act of Bid`ah is worse and more harmful than omitting an act of Sunnah. The proof for this is that the Fuqahaa have said that if one doubts the ruling of whether a thing is Sunnah or Bid`ah, then it is necessary for him to abstain therefrom."*

4. It is stated in Fataawa Aalimgiri, *"That wherein there is a doubt of it being a Sunnah or Bid`ah should be left out."*

5. Allamah Shaami (rahmatullahi alaihi) writes, *"When there is a doubt between a thing being Sunnah or Bid`ah, then it is preferable to leave out the Sunnah than to carry out a Bid`ah."*

The object being that the act not be executed because by omitting it the most is that one will be leaving out a Sunnah, which is allowed in the Shariah, whereas if the act is a Bid`ah then one will be guilty of having carried out a Bid`ah act, which is not allowed at all in the Shariah. In such a case, preference will be given to exercising caution and abstaining.

The reason being that Bid`ah is a very foul and detestable act. The gist of the reality of Bid`ah is to make Shariah what is not. Since Shariah is whatever has been revealed by Allaah Ta`ala, therefore if a person carries out a Bid`ah then he will be doing something which is not from Allaah Ta`ala and attributing it to Allaah Ta`ala, and this is a great slander and imputation and it is a type of claim to Nubuwwat. Because of the gravity of this, it will not be astounding to one that abstention is preferred.

Some results of Bid`ah

1. Deprivation of the Sunnah

Hadhrat Ghadeef Bin Haarith Thamaani (radhiallahu anhu) narrates that Rasulullaah (sallallahu alayhi wasallam) said, *"No nation commits a Bid`ah except that a similar Sunnah is taken away from them. It is better to hold onto the Sunnah than to indulge in Bid`ah."*
Hadhrat Hassaan Tabi`ee (rahmatullahi alaihi) states, *"No nation introduces a Bid`ah except that Allaah removes an equal Sunnah from them, which will not return to them until the Day of Qiyaamah."*

2. This demolishes Islaam

It is stated in one Hadith, *"He who honours a Bid`atee, has aided in destroying Islaam."*
The object here being that the Bid`atee, through his act of Bid`ah, is destroying and demolishing Islaam, and the one who grants honour to him is assisting and aiding in this destruction of Islaam.

3. Deprivation of the honour and respect of Muslims

This Hadith mentioned above prohibits Muslims from granting any respect and honour to Bid`atees.

CHAPTER TWELVE

THE PRINCIPLES OF IMAAN AND KUFR

Necessary definitions

1. *Takfeer* – means to inform someone that due to some act of kufr of his he becomes a kaafir. Therefore, to make *takfeer* of someone is not making him a kaafir, it is merely informing him of his kufr.
2. *Thuboot-e-Qat`i* – those things regarding Nabi (sallallahu alaihi wasallam) which have reached us through a perpetual and continuous chain (*Tawaatur*), are *Thuboot-e-Qat`i (absolutely established).* For example, the Qur`aan Majeed, the quantity of Salaat, the manner of performing Sajdah and Ruku, the details regarding Athaan and Zakaat, Nabi's (sallallahu alaihi wasallam) being the Seal of Prophets, etc.

   The meaning of *Tawaatur* is where something has reached us right from the era of Nabi (sallallahu alaihi wasallam) until present times and in every era in between there were so many narrators of this thing, that it is impossible to claim that all of them were liars and / or are mistaken.

3. *Thuboot-e-Badeehi* – this is known as compulsory in the general usage of the Fuqahaa. This is where a thing attains recognition by the general masses and the learned, together with it being transmitted through *Tawaatur*. These are such things whose recognition reaches even the man in the street. For example, that Salaat, fasting, Zakaat and Hajj are Fardh, that alcohol is haraam, that Nabi (sallallahu alaihi wasallam) is the Seal of Prophets, etc.
4. *Dhurooriyaat-e-Deen* – Those things which have reached us from Nabi (sallallahu alaihi wasallam) through *Tawaatur,* and they have been established with such recognition that every person, laity and learned, know of its ruling. This is what is

known in the terminology of the Fuqahaa and *Mutakallimeen* as *Dhurooriyaat-e-Deen.*

5. *Imaan* – To accept with the heart everything which has been established from Nabi (sallallahu alaihi wasallam) through *Qat`i* and *Badeehi* means, on the condition that one is prepared to carry it out and obey it as well.
6. *Islaam* – The admission of obedience and subservience to Allaah Ta`ala and Rasulullaah (sallallahu alayhi wasallam), on the condition that one has Imaan together with this, i.e. acceptance of the heart.
7. *Kufr* – To falsify any one thing whose acceptance with the heart is necessary for Imaan, is called kufr.

The difference between Islaam and Imaan

In accordance with the literal definitions, Imaan is acceptance of the heart and Islaam is obedience and subservience. The basis (place of execution) of Imaan is the heart and the basis of Islaam is limbs and body.

However, in the Shariah it is not possible that Islaam exist without Imaan or Imaan without Islaam. That is, in the Shariah it will not be worth any consideration if one accepts Allaah Ta`ala and Nabi (sallallahu alaihi wasallam) in the heart, whereas there is no confirmation of this on the tongue or physical execution of obedience with the body. On the other hand, physical demonstration of obedience and subservience will not be considered in the Shariah as long as there is no acceptance of Allaah Ta`ala and Nabi (sallallahu alaihi wasallam) in the heart.

"The two groups of the Ahle Haqq, i.e. Ashaa`irah and Hanafia, have agreed unanimously that Imaan and Islaam are intricately interwoven, that is, Islaam without Imaan is not considered and neither the opposite. The one cannot be separated from the other." [Musaamarah, page 186, vol. 2]

The types of kufr

There are four types of kufr;

1. ***Kufr-e-Jahl*** – to have this opinion in one's baatil (spurious) thoughts that the claim of Nubuwwat of Nabi (sallallahu alaihi wasallam) is not true. Most of the Mushrikeen or Arabia had this concept.

2. ***Kufr-e-Juhood wa I`naad*** – (a). Together with accepting the claim of Nabi's (sallallahu alaihi wasallam) Nubuwwat, one falsifies him.

   These are of the following types –
   Not accepting the Message of Nabi (sallallahu alaihi wasallam). The kufr of the Ahle Kitaab, Firòan, Abu Jahal, etc. was of this category.

   "Those to whom We have given the Kitaab, they recognise him (Rasulullaah - sallallahu alayhi wasallam), just like how they recognise their children."

   "They negate and disclaim it (his Message), through haughtiness and pride, whereas they are convinced (of its truth)."

   (b). Notwithstanding acceptance of the Message of Nabi (sallallahu alaihi wasallam), a statement of his is openly refuted and rejected as a lie. That is, one accepts some of his (sallallahu alayhi wasallam)'s teachings and rejects some.

   (c). To reject any action or statement of Nabi (sallallahu alaihi wasallam) which is absolutely established, and to say that it is not his action or statement. This is also in reality a refutation of the Rasool (sallallahu alayhi wasallam). The kufr of those who refute the Ahaadith is due to this factor.

3. ***Kufr-e-Shak*** – to have doubt rather than certainty in the heart regarding those things upon which belief is incumbent. That is, one harbours doubts as to whether these things are true or not. The kufr of the Munaafiqeen is such.

4. ***Kufr-e-Taweel*** – this is where a person together with accepting the statements and actions of Nabi (sallallahu alaihi wasallam), he deduces his own concocted interpretations, which are in violent conflict with the accepted and established import of the Qur`aan Majeed and Hadith. This type of kufr is termed in the Qur`aan Majeed as *Ilhaad* (heresy) and in the Hadith it is termed *Ilhaad and Zindiqah* (hypocrite/ heretic). Those deviant sects which have strayed into kufr due to their concocted beliefs and interpretations fall under this category.

"It is reported from Ibn Umar (radhiallahu anhu) that he heard Rasulullaah (sallallahu alayhi wasallam) saying, 'Soon there will be in this Ummah disfigurement. Hark, this will be those who falsify Taqdeer (fate) and the heretics."

Regarding this type of falsification and kufr, Shah Waliullah (rahmatullahi alaihi) states, *"Although they outwardly accept the matters of Deen, they interpret some established issues in the Deen contrary to what the Sahaabah (radhiallahu anhum), Tabieen and Ijma have done, therefore they are heretics. For example, they accept that the Qur`aan Majeed is Haqq, and whatever is contained therein regarding Jannat and Jahannum is also Haqq, but they aver that the meaning of Jannat is happiness and pleasure which is created by virtue of good character and Jahannum is disgrace which is created due to evil character. In effect there is no physical Jannat or Jahannum. Such a person is a heretic."*

The difference between a correct interpretation and a baatil one

Shah Waliullah (rahmatullahi alaihi) states, *"There are two types of interpretations, one interpretation is that which is not contrary to an established issue in the Qur`aan Majeed, Sunnah and Ijma (this is the correct one). Another interpretation is that one which conflicts with an*

established issue from the sources mentioned above. This is heresy. (Baatil interpretation is alteration in the Deen). Hence, the person who refutes seeing Allaah Ta`ala on the Day of Qiyaamah, or he refutes the punishment in the grave, or he refutes the questioning of Munkar and Nakeer, or he refutes the crossing of the Pul Siraat or the reckoning, whether this person says that he considers (as reliable) the narrators of the Ahaadith or not, but he interprets away the actual meaning of the Ahaadith, and he makes such an interpretation which is unheard of, then he is a heretic. Or if a person says that Nabi (sallallahu alaihi wasallam) is the Seal of Prophets, but the meaning of this is that it is not possible to call anyone a prophet after (the demise of) Nabi (sallallahu alaihi wasallam). However, the import of Nubuwwat, belief in it (i.e. for Allaah Ta`ala to appoint a human for the guidance of others), and obedience and subservience to him is Fardh, and that he is free from sin. To believe these things to be existent and present in the Imaams, is heresy."

Similarly, if someone says that he believes that Nabi (sallallahu alaihi wasallam) was the Seal of Prophets, but there can be a prophet after him or a prophet did come after him, but this prophet came through Nabi (sallallahu alaihi wasallam) and under his shadow, then such a person is also a heretic.

The crux of the matter is that if anyone makes such a spurious interpretation of any of the *Dharooriyaat-e-Deen*, i.e. those things which are absolute and certain in the Deen, such that the import and form is changed and it is in direct opposition to what is clear in the Qur`aan Majeed and Hadith and the majority of the Ummat have accepted it as such, then in reality this is falsifying the Qur`aan Majeed, Ahaadith and Aqaa`id of Deen.

It is stated in the famous Kitaab of *Ilm-e-Aqaa`id,* which is *Maqaasid, "If a person is such that together with accepting the prophethood of Nabi (sallallahu alaihi wasallam) and outwardly displaying the signs of Islaam (i.e. he performs Salaat, fasts, gives Zakaat, etc.), he holds such beliefs concealed within him which are unanimously accepted as kufr, then such a person is termed a heretic."*

Those reasons which renders a person a Murtadd (renegade) and ejects him from the fold of Islaam

The literal meaning of *Irtidaad* is to turn away. The Shar`i meaning is to turn away from Islaam and Imaan. The person who commits *Irtidaad* and turns away from Islaam is called a *Murtadd*. There are two forms of *Irtidaad*:

The first type of Irtidaad

Where someone openly and clearly changes his religion and turns away from Islaam. For example, a person leaves Islaam and becomes a Jew, Christian or Hindu. Or he refutes the Oneness of Allaah Ta`ala, or he rejects the Nubuwwat of Nabi (sallallahu alaihi wasallam).

The second type of Irtidaad

This is where a person does not openly change his religion and he does not even refute *Tauheed* and *Risaalat*, but he opts for such beliefs, statements and actions, which imply and entail refutation of the Qur`aan Majeed and/or Risaalat. For example, a person refutes a necessary and absolute ruling of the Shariah which is established from the clear *nass* of the Qur`aan Majeed or something which is established from Nabi (sallallahu alaihi wasallam) through *Tawaatur*. For example, if a person rejects the innocence of Hadhrat Aishah (radhiallahu anha), or he refutes the fact that there are five daily Salaat.

An explanation of this follows:
Just as Imaan on Allaah Ta`ala is not limited to only belief in His existence, in fact, it is necessary to believe that all His perfect Qualities, like Knowledge, Hearing, Sight, Power, etc., etc. which have been outlined in the Qur`aan Majeed and Hadith are part of His Greatness. Otherwise, even the Jews and Christians believe in the existence of Allaah Ta`ala and His qualities.

Similarly, Imaan in Nabi (sallallahu alaihi wasallam) does not only mean to believe that he was born in Makkah Mukarramah, and that he (sallallahu

alayhi wasallam) made Hijrat to Madinah Munawwarah, and that he lived to the age of 63, but the reality of Imaan in Rasulullaah (sallallahu alayhi wasallam) is as the Qur`aan Majeed explains, *"Your Rabb takes an oath, they will never believe until they make you a judge in their disputes and quarrels, and then they do not find in themselves any misgivings regarding that which you had decreed and they accept wholeheartedly."*

In commenting on this Aayat, Hadhrat Ja`far Saadiq (rahmatullahi alaihi) states,

"If any nation worships Allaah, they are regular in Salaat, fulfil their Zakaat, keep the fasts of Ramadhaan and make Hajj of the House of Allaah, but if they say regarding anything which has been absolutely established from Rasulullaah (sallallahu alayhi wasallam) that why did he do this? Why did he not do contrary to this? And if they find constraint in their hearts in accepting him (fully), then this nation is amongst the Mushrikeen."

Note #1:

An explanation of what has been mentioned regarding a person who refutes a necessary and absolute ruling, is as follows,

There are different types of edicts in Islaam insofar as their being established and each one of them have varying rulings. The ruling of kufr will only be declared on the person if he refutes those edicts in the Shariah which have been established by *Qat`iuth Thuboot* and *Qat`iud Dalaalat*.

*Qat`iuth Thuboot* is where something is established from the Qur`aan Majeed or from such a Hadith whose narrators, from the era of Nabi (sallallahu alaihi wasallam) until present times, through all the ages and nations, are so many and varying that there is no possibility of falsifying the lot or averring that they have all erred (i.e. *Tawaatur Ahaadith).*

*Qat`iud Dalaalat* is where the text in the Qur`aan Majeed is clear for a certain ruling or where it is established from a Hadith-e-Mutawaatir, and

the meaning and import is clear and unambiguous (where an interpretation is required and may be utilised).

Therefore such types of absolute rulings, which is famous and recognised in every sphere of the general masses and learned, and where imparting it to the people does not require any specialised means. In fact, the general Muslims are aware of this by way of 'inheriting' it. For example, Salaat, fasting, Hajj, Zakaat, etc. being Fardh; theft consumption of alcohol being haraam; Nabi's (sallallahu alaihi wasallam) being the Seal of Prophets; etc. Such absolute matters of the Deen are known as *Dharooriyaat-e-Deen*. If anything is not so well recognised, then it is termed as only *Qat`iyaat* and not *Dharooriyaat*.

The difference between *Dharooriyaat* and *Qat`iyaat* is that the refuter of the former is, by Ijma and consensus, a kaafir. There can be no excuse of ignorance and unwariness, neither will any interpretation be entertained. As for the refuter of those *Qat`iyaat* which have not reached this level of recognition and fame, the ruling regarding him according to the Hanafis is that if he is from the laity, and he refutes something, then the ruling of kufr will not immediately be passed on him.

He will firstly be explained to and told that this is a matter which has been absolutely proven and is from the *Qat`iyuth Thuboot* and *Qat`iud Dalaalat* and to refute it is kufr. If he maintains his stance even after being explained, then he will be declared a kaafir.

Note #2 – If any ruling:

1. Is neither *Qat`iuth Thuboot* nor *Qat`iud Dalaalat*, or
2. Is not *Qat`iuth Thuboot* but is *Qat`iud Dalaalat*, or
3. Is *Qat`iuth Thuboot* and not *Qat`iud Dalaalat*, then

The refuter of all such matters described above will not be a kaafir, but he will be declared a Faasiq.

Note #3

An example of something which is not *Qat`iuth Thuboot* are those Ahaadith which are in the classification of *Khabar-e-Waahid.*

The Mas`alah regarding the takfeer of the Ahle Qiblah

Those people who outwardly display Imaan and Islaam and they are regular with Salaat, fasting, etc., but they make some spurious interpretation of a *Qat`i* or definite ruling of the Shariah, which is contrary to the Qur`aan Majeed, Sunnah and Ijma of the Ummah, such that it changes the meaning thereof (i.e. heretics).

After establishing that they are kaafir, the question now arises that these people still recite and testify to the Kalimah, they are from the Ahle Qiblah and to make *takfeer* of the Ahle Qiblah is, after all, impermissible. What then is the answer to this? Regarding this are the following Ahaadith:

1. Hadhrat Anas (radhiallahu anhu) reports that Rasulullaah (sallallahu alayhi wasallam) said, *"He who testifies that there is no deity but Allaah and he faces towards our Qiblah, he performs our Salaat, he eats from our slaughtered animals, he is a Muslim, unless you see clear kufr (being perpetrated) by him and you have proof by you for Allaah."*
2. Hadhrat Anas (radhiallahu anhu) reports that Rasulullaah (sallallahu alayhi wasallam) said, *"Three things are from basic Imaan, preventing that person who recites Laa Ilaaha Illallaahu, not making Takfeer (of anyone) because of his sin and not expelling him from Islaam because of his actions."*

From these two Ahaadith, the end of the first Hadith clearly explains, that a person of the Kalimah cannot be called a kaafir unless he commits such an act or makes such a statement which is clear kufr.

The second Hadith explains that a person cannot be called a kaafir because of any action or statement of his. This means that if he makes any amount of sin, Fisq and Fujoor, as long as he does not do any action, which is

unanimously accepted as kufr, then he cannot be called a kaafir. It does not mean that if he commits clear kufr, and does something which is clear-cut contrary to Islaam, he cannot be called a kaafir.

The entire Sahaabah (radhiallahu anhum) were unanimous on the kufr and Irtidaad of those who desisted from paying Zakaat and those who accepted the prophethood of Musailima Kath-thaab. This is clear proof that the Ahle Qiblah, whose Takfeer is not permissible, does not mean that those who face towards the Qiblah and perform Salaat, cannot be called kaafir if they commit clear acts of kufr. In fact, from this we understand that (recital of the) Kalimah and Ahle Qiblah, are two literal Shar`i terms, and only those Muslims are included in this category who are punctual with (the signs of) Islaam, like Salaat, fasting, Zakaat, etc. and are free from any commission of kufr.

Mullah Ali Qaari (rahmatullahi alaihi) writes in *Sharah Fiqh Akbar, "Know that Ahle Qiblah are those people who are in agreement with all the Dharooriyaat of Deen, for example that the universe was created, in resurrection, in all of Allaah Ta`ala's Attributes, etc. Hence the person who adheres to obedience all his life, but he believes that the universe is ever-existent, or he refutes the concept of resurrection, or he refutes the Attributes of Allaah Ta`ala, then such a person is not from the Ahle Qiblah. The belief of the Ahle Sunnat regarding the Ahle Qiblah is that their takfeer will not be made as long as no clear signs of kufr are evident and as long as he does not commit any clear act of kufr."*

Intention is not a prerequisite for coming out of the fold of Islaam or becoming a kaafir or Murtadd

The proof for this is that shaitaan, the big Iblees, did not intend becoming a kaafir. Regarding this it is stated in the Qur`aan Majeed, *"He was from amongst the Kaafireen."*

Similarly, those in the first era of Islaam, who desisted from fulfilling Zakaat and those who accepted Musailima Kath-thaab as a prophet, did not intend becoming kaafir, but they were declared kaafir by the unanimity of the Sahaabah (radhiallahu anhum).

The reason being that if intention was a condition for kufr, and any interpretation would be accepted for a person, then in this world, not even the biggest of big kaafir would be out of the fold of Islaam. Shaitaan did not refute Allaah Ta`ala, neither did he refute the deity-status of Allaah Ta`ala nor any of His Qualities. In fact, he only refused to make Sajdah to another, besides Allaah Ta`ala. In excuse he can aver that he is the greatest of *Muwahhids* (believers in the Oneness of Allaah Ta`ala). But, Allaah Ta`ala had rendered him a kaafir due this rebelliousness and refutation of his. Similarly, idol-worshippers can make the excuse that they do not believe the idols to be Allaah, but they only worship the idols in order to get closer to Allaah Ta`ala and to acquire His Pleasure. The Qur`aan Majeed itself mentions this excuse of the idol-worshippers and waives it aside as not worthy of any consideration, *"We do not worship the idols except to gain nearness to Allaah."*

What must be done if one has doubt with regard to the kufr of a person?

If there is a doubt regarding the kufr of a person or group, whether this doubt is due to the difference of opinion of the Ulama or because of some other factor, then in such a case the correct and proper path to opt for will be not to pass the verdict of kufr, nor to accept his/their Islaam.

Further clarification on this is that since one will not accept the Islaam of such a person, then Nikah with such a person will not be consented to, he will not be followed in Salaat and neither will an animal sacrificed by him be eaten. And since the verdict of kufr will also not be passed upon such a person, then he will not be dealt with as one deals with the kuffaar.

If one has the ability to investigate, then such a person must be investigated, and whatever the result of such an investigation yields, one will act accordingly. If one is not able to investigate, then silence must be adopted and the matter will be handed to Allaah Ta`ala.

Kufr-e-Iltizaami and Kufr-e-Luzoomi

To hold such beliefs and opinions which in themselves are kufr, for example, that the Qur`aan Majeed is not a Divine Scripture, this is called *Kufr-e-Iltizaami*, because the person, by virtue of his own doing and action renders kufr upon himself.

To hold such beliefs, opinions and views which by themselves are not kufr, but they imply kufr, then the kufr which follows, is called *Kufr-e-Luzoomi*. An example of this is the belief in the concept of *Badaa*. That is, Allaah Ta`ala knew something from before, but the reality of the thing (when it occurred) happened differently, or that Allaah Ta`ala intended something in the first place and later decided that this intention was not right. This type of belief necessitates that (*Nauthubillaah)*, Allaah Ta`ala is ignorant and is not All-Aware, which in actual fact is a kufr belief.

Regarding this, the following is the law:
If a statement of a person necessitates kufr, but he does not know or realise that that statement was kufr, and then if he is made aware of the reality of what he did, and if he refutes having such a belief and the fact that his act necessitated kufr is also not very clear, and the matter at hand is not from the *Dhurooriyaat-e-Deen*, then he cannot be labelled a kaafir.

If he accepts the import of his act/statement, but he says that it does not necessitate kufr, whereas in reality it does, then he will be taken a kaafir.

Similarly, if the act/statement clearly necessitated kufr, and there is no possibility of concealment, then this is a matter where what is obvious will apply and even if the perpetrator denies having knowledge thereof, then it (his excuse) will not be accepted.

Takfeer of a true Muslim

Hadhrat Abu Sa`eed Khudri (radhiallahu anhu) reports that Nabi (sallallahu alaihi wasallam) said, *"One person does not make Takfeer of another, except that one of them become liable for kufr, because either that person (who is accused) is in reality a kaafir (then he is a kaafir), otherwise the*

one making the takfeer will become kaafir due to his (false accusation of) Takfeer." In another narration it is reported that kufr will become necessary on one of the two.

The impermissible and false *Takfeer* will rebound. By kufr becoming Waajib it is meant that the burden and vexation will fall on the person making the false accusation. Some have averred that the words of the Hadith that kufr becomes Waajib, is an implication of *Kufr-e-Luzoomi*. The reasoning behind this is that when one person calls another a kaafir, whereas the latter holds pure Islaamic beliefs, then it means that the accuser is saying that Islamic beliefs are kufr, which necessitates that he (the accuser) becomes a kaafir. To call Imaam kufr is definitely a libel against and falsification of Allaah Ta`ala and His Rasool (sallallahu alayhi wasallam).

It is stated in the Qur`aan Majeed, *"That person who refutes Imaan has despoiled his good deeds."*

In summary, it means that a person who harbours no kufr in his Imaan, regardless of what a great sinner he may be, cannot be labelled a kaafir.

Based on the above explanation, the Fuqahaa have ruled for the exercising of such caution and prudence, that if a person makes a doubtful statement wherein there are 99 possibilities of kufr and one possibility which can be deduced as being correct, then the Mufti will not consider the 99 possibilities and taking the one possibility into consideration, he will not make *takfeer*. This is on condition that the person does not admit to what is obviously kufr.

It is stated such in *Fataawa Aalimgiri*, *"If in any matter there are various possibilities of kufr and just one which is opposed to kufr, then it is necessary for the Mufti that he consider/ incline towards the one possibility, as long as the perpetrator does not admit to what is clearly kufr, in which case, no excuse will benefit him."*

To call a kaafir a Muslim

As realised from the aforegoing discussion it is obvious that to call and regard a declared kaafir as a Muslim is a very dangerous and precarious thing. It places one's Imaan in jeopardy. The reason being that this would mean one is calling kufr Imaan and to do such a thing is a great disservice and oppression to the entire Islaamic creed and society. The entire Islaamic society is affected thereby. The effect of this falls onto and taints every aspect of Islaam, like Nikah, lineage, inheritance, slaughter, Imaamat, Salaat and social and political rights.